

EXHIBIT "A"

From: Sadha Kameswaran <sadha.kameswaran@byton.com>
Sent: Friday, October 05, 2018 11:12 AM EDT
To: Volker Amelung <volker.amelung@edag.de>
Subject: RE: Antwort: RE: Antwort: RE: Payment update required

Hi Volker,

The fundamental issue is the ODI clearance from China Government to allow FAW to deposit moneys to us. Once we have the money, and particularly deposited in USD, the issue should be minor to transfer to US or Germany as required.

Thanks

Sadha Kameswaran
+1 (510) 505 4948

From: Volker Amelung <volker.amelung@edag.de>
Sent: Friday, October 5, 2018 8:02 AM
To: Sadha Kameswaran <sadha.kameswaran@byton.com>
Subject: Antwort: RE: Antwort: RE: Payment update required

Hi Sadha,

Have you ever considered to funnel the funds to Germany?

I have heard from sources in China that this is easier because it is not affected by the current spat between US and China.
Do you have any forecast when you will have the funds?

Mit freundlichen Grüßen / Best Regards

Volker Amelung
Senior Project Manager
PD/Project Management

EDAG Engineering GmbH
Max - Diamand Strasse 7
D-80937 München
T: +49 (89) 350989 202
M: +49 171 888 3750
E: volker.amelung@edag.de
Internet: <http://www.edag.de>

Von: Sadha Kameswaran <sadha.kameswaran@byton.com>
An: Volker Amelung <volker.amelung@edag.de>
Datum: 04.10.2018 17:10
Betreff: RE: Antwort: RE: Payment update required

Hi Volker,

To be totally honest with you, it is very likely that we will miss the Oct 15th payment. I know this is not what you want to hear but based on how slow things are moving in China at the moment, I want to be totally transparent with you.

Thanks

Sadha Kameswaran
+1 (510) 505 4948

From: Volker Amelung <volker.amelung@edag.de>
Sent: Thursday, October 4, 2018 7:05 AM
To: Sadha Kameswaran <sadha.kameswaran@byton.com>
Subject: Antwort: RE: Payment update required

Hi Sadha,

Still worried though- You think you miss the Oct 15 day for payment?

Mit freundlichen Grüßen / Best Regards

Volker Amelung
Senior Project Manager
PD/Project Management

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D-80937 München
T: +49 (89) 350989 202
M: +49 171 888 3750
E: volker.amelung@edag.de
Internet: <http://www.edag.de>

Von: Sadha Kameswaran <sadha.kameswaran@byton.com>



An: Volker Amelung <volker.amelung@edag.de>
Datum: 01.10.2018 19:15
Betreff: RE: Payment update required

Hi Volker,

While there has been a lot of work that happened in China, the ODI clearance is still awaited from Chinese Government. I will let you know once the clearance is received and funds start coming through.

With China on vacation this week, I don't expect to hear anything until sometime next week. Appreciate your patience and ongoing support.

Thanks

Sadha Kameswaran
+1 (510) 505 4946

From: Volker Amelung <volker.amelung@edag.de>
Sent: Monday, October 1, 2018 4:36 AM
To: Sadha Kameswaran <sadha.kameswaran@bvtm.com>
Subject: Payment update required

Hi Sadha,

any news?

Can we expect the payment of the past due Invoices by Oct. 15, 2018?

Mit freundlichen Grüßen / Best Regards

Volker Amelung
Senior Project Manager
PD/Project Management

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Internet: <http://www.edag.de>

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From: Volker Amelung <volker.amelung@edag.com>
Sent: Tuesday, March 05, 2019 1:14 PM EST
To: Sadha Kameswaran <sadha.kameswaran@byton.com>
Subject: Re: Open payments 2018

Thanks, Sadha,
Awaiting some good news.

BR
Volker

Send from my iPhone

Am 05.03.2019 um 18:02 schrieb Sadha Kameswaran <sadha.kameswaran@byton.com>:

Volker,

Let me check the status and get back to you in the next day or so. Appreciate your patience.

Thanks

Sadha Kameswaran
+1 (510) 505 4946

From: Volker Amelung <volker.amelung@edag.com>
Sent: Tuesday, March 5, 2019 12:35 AM
To: Sadha Kameswaran <sadha.kameswaran@byton.com>
Subject: WG: Open payments 2018

[EXTERNAL]
Hi Sadha,

It would be very good to get a status and payment plan as requested.
My management is getting quite active right now, not sure how good I can control.

Here is the overview of open invoices.
I also like to understand if someone is sitting on the pipeline so I can react to the specific problem.

<image001.gif>

Past due are now 5,155,155,00 €

Furthermore, I am still waiting on the PO for the Santa Clara & Nanjing EDAG resources. The request is also increasing there.
At this time I have not invoiced for Jan and Feb 2019 and I cannot wait much longer to do so.

I think I can invoice against the old payment plan and adjust later when the new one is ready.

Please advise.

Mit freundlichen Grüßen / Best Regards

Volker Amelung
Senior Project Manager
PD/Project Management

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T: +49 (89) 350989 202
M: +49 171 868 3750
E: volker.amelung@edag.com
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<image002.gif> <image003.gif> <image004.gif> <image005.gif> <image006.gif> <image007.gif>
<image008.gif> <image009.gif>

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Aufsichtsratsvorsitzender / Chairman of the Supervisory Board: Georg Denoke

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— Weitergeleitet von Volker Amelung/Muenchen/edag am 05.03.2019 09:25 —

Von: Volker Amelung/Muenchen/edag
An: "Sadha Kameswaran" <sadha.kameswaran@byton.com>
Kopie: "Fahoom Lord" <fahoom.lord@byton.com>, Christopher Kettola/USA/edag@EDAG, Kai Uwe Selzmann/USA/edag@EDAG
Datum: 04.03.2019 12:07
Betreff: Open payments 2018

Hi Sadha,

Please let me know the status of the open payments.
I like to know when they are paid and if there are any hold ups.

My CFO is already searching for Albert.

Mit freundlichen Grüßen / Best Regards

Volker Amelung
Senior Project Manager
PD/Project Management

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E: volker.amelung@edag.com
Internet: <http://www.edag.de>

From: Tom Wessner <tom.wessner@byton.com>
Sent: Thursday, July 25, 2019 11:55 PM EDT
To: De Carlo, Cosimo <cosimo.de.carlo@edag.com>
CC: Dr. Daniel Kirchert <daniel@byton.com>; Twohig, David <david.twohig@byton.com>; Lord, Faheem <faheem.lord@byton.com>; Sadha Kameswaran <sadha.kameswaran@byton.com>; Keller, Harald <harald.keller@edag.com>; Amelung, Volker <volker.amelung@edag.com>
Subject: EDAG Payment Status

Dear Cosimo and EDAG Team:

There are recent developments around our Byton funding that are looking more promising, as we are ever closer to closing our C-round, plus have some bridge financing and other potential major funding sources that look very promising.

Meanwhile, the patience and support that EDAG continues to give to Byton is GREATLY appreciated. We do not fault EDAG for managing its risk and we intend to work even harder at our partnership when we can get back to normal business.

Our first intent is to completely clear our arrears and restart this program; and there is a good chance that this will be the path shortly. If Byton must continue to conserve cash, but we have enough to follow your prior payment proposal, then we will follow that.

Either way, we will continue to make ourselves available to work through this difficult time so we can meet all of our objectives. I am traveling in Asia for another week, but I will gladly take a call at any time to answer your questions (my mobile number is below).

Best regards,



TOM WESSNER
 Senior Vice President Global Supply Chain

魏思涛
 供应链副总裁

BYTON

D4 Building, Maple Science Park(MSP), Nanjing Economic and Technological Development Zone, Nanjing, P.R. China

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EXHIBIT

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EXHIBIT

0026



BYTON North America Corporation
4201 Burton Drive
Santa Clara, CA 95054

July 28, 2019

To:
EDAG Engineering GmbH
Att. Mr. Holger Merz
Kreuzberger Ring 40
65205 Wiesbaden
Germany

Via Email to: holger.merz@edag.com

Letter of Confirmation

Dear Mr. Merz:

Byton North America Corporation, Inc. ("Byton") herewith confirms the maturity and legality of the (over-) due receivables as attached hereto.

Byton herewith confirms that these dues are to be paid in full as soon as the "bridging loan" is accomplished and the funds have been received by Byton. Byton confirms it will fulfill this payment amounting to EUR 19,779,825.21 (overdues until August 17th, 2019, interests included) before other creditors are paid. Byton plans on fulfilling this payment latest August 18th, 2019.

Best regards,

A handwritten signature in black ink, appearing to read 'T. Shi', written over a horizontal line.

Teresa Shi
Vice president of Finance

A handwritten signature in black ink, appearing to read 'Tom Wessner', written over a horizontal line.

Tom Wessner
Senior Vice President Global Supply Chain

Attachment: Overdues to EDAG Engineering GmbH



From: holger.merz@edag.com <holger.merz@edag.com>
 Sent: Friday, August 16, 2019 12:58 PM EDT
 To: Wessner, Tom <tom.wessner@byton.com>
 CC: De Carlo, Cosimo <cosimo.de.carlo@edag.com>; Dr. Daniel Kirchert <daniel@byton.com>; Keller, Harald <harald.keller@edag.com>; Teresa Shi <teresa.shi@byton.com>
 Subject: Antwort: RE: Antwort: RE: Antwort: Byton_ EDAG confirmation of payments
 Attachment(s): "IMG_4594.JPG"

Hello Tom,

I have just talked to my auditors (Deloitte). We do not need to mention our Byton risk in our half-year financial statement, if we receive a payment of 35% of all past due. Furthermore, all overdues should be paid until 30th September. That is very important for our Q3 figures 2019. Here is my proposal. Please let me know, if you can realize it.

EDAG Overdue Payment Schedule

Date	Currency	USD
Aug 19th	EUR	7.079.646,01 8.000.000,00
Sept 3rd	EUR	6.000.000,00 6.780.000,00
Sept 20th	EUR	6.700.179,19 7.571.202,49
Total	EUR	19.779.825,21 22.351.202,49

Mit freundlichen Grüßen / Best regards

Holger Merz
 Geschäftsführer / Managing Director (CFO)

EDAG Engineering GmbH
 Reesbergstraße 1 / D - 36039 Fulda
 Tel.: +49-661-6000-200 / Mobil: +49-175-2283053
 Email: Holger.Merz@edag.com

Von: Tom Wessner <tom.wessner@byton.com>
 An: Holger Merz <holger.merz@edag.com>; "Dr. Daniel Kirchert" <daniel@byton.com>
 Kopie: Teresa Shi <teresa.shi@byton.com>; "Cosimo de Carlo" <cosimo.de.carlo@edag.com>; Harald Keller <harald.keller@edag.com>
 Datum: 16.08.2019 17:21
 Betreff: RE: Antwort: RE: Antwort: Byton_ EDAG confirmation of payments

Holger:

We sincerely appreciate the difficulty of the situation Byton is putting EDAG into. Unfortunately, our new investor situation is still developing and taking longer than expected. I am attaching a revised payment plan which is realistic given our present cash outlook; hopefully conservative given the opportunities we have to close known investment rounds.

I am not sure what accounting conventions you must follow for your reporting, however if Byton can get EDAG the EUR 1.8 million next week according to the attached plan, then perhaps that is enough to show Byton's good faith to pay all past dues so that EDAG does not have to write-off the entire payable.

Please consider this moving forward. Let us know if this is acceptable, or if there is anything else Byton can do to demonstrate its commitment to meeting all of our obligations and continuing our partnership moving forward.

Best regards,



CONFIDENTIAL SUBJECT TO PROTECTIVE ORDER

EDG-0000096

155-001

dp

Tom Wessner
Senior Vice President Global Supply Chain

魏思涛
供应链高级副总裁

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D4 Building, Maple Science Park(MSP), Nanjing Economic and Technological Development Zone, Nanjing, P.R. China
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From: Holger Merz <holger.merz@edag.com>
Sent: Friday, August 16, 2019 9:54 AM
To: Tom Wessner <tom.wessner@byton.com>; Dr. Daniel Kirchert <daniel@byton.com>
Cc: Teresa Shi <teresa.shi@byton.com>; cosimo.de.carlo@edag.com; Harald Keller <harald.keller@edag.com>
Subject: Antwort: RE: Antwort: Byton_ EDAG confirmation of payments

[EXTERNAL]
Hello Daniel, hello Tom

thank you for sending me your payment plan. But, your proposal is not satisfactory and acceptable for us. As we mentioned several times before, we publish our half-year financials on 28th August 2019. Therefore, we need a strong sign in the form of cash from Byton, no later than 23th August 2019. Otherwise, we will have to communicate our shareholders and analysts, and as a result, any negative information about Byton's financial difficulties will be made public. All this will negatively impact the reputation of EDAG and Byton. Against the background of the Auto Show in Frankfurt, such negative news are not helpful for both companies. We also want to avoid initiating the legal dunning procedure, as we had a trusted relationship between customer and supplier in the past.
I hope you understand our common problem. So please make sure that EDAG receives the full amount by 23th August 2019 at the latest.
I am looking forward to receiving your feedback soon.

Best regards

Holger Merz
Geschäftsführer / Managing Director (CFO)

EDAG Engineering GmbH
Reesbergstraße 1 / D - 36039 Fulda
Tel.: +49-661-6000-200 / Mobil: +49-175-2283053
Email: Holger.Merz@edag.com

Von: Tom Wessner <tom.wessner@byton.com>
An: Holger Merz <holger.merz@edag.com>, "Dr. Daniel Kirchert" <daniel@byton.com>
Kopie: Teresa Shi <teresa.shi@byton.com>
Datum: 15.08.2019 19:58

Betreff: RE: Antwort: Byton_ EDAG confirmation of payments

Holger:

There continues to be a delay in the deposit of our first tranche. According to our best finance projection to date it appears that we should be able to realize the attached payment plan to EDAG. Of course, if we can get current any faster, we will.

If you have any questions, I think it would be best to speak directly to our CEO, Daniel Kirchert for any additional color that he can add to our situation.

Best regards,

UD

Tom Wessner
Senior Vice President Global Supply Chain

BYTON

D4 Building, Maple Science Park(MSP), Nanjing Economic and Technological Development Zone, Nanjing, P.R. China

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From: Holger Merz <holger.merz@edag.com>

Sent: Wednesday, August 14, 2019 2:32 AM

To: Tom Wessner <tom.wessner@byton.com>; Teresa Shi <teresa.shi@byton.com>

Subject: Antwort: Byton_ EDAG confirmation of payments

[EXTERNAL]

Hello Tom, hello Teresa,

I hope the bridge financing is well advanced. Did you receive the first tranche? Can you already give me a specific date on which we get the overdue receivables paid?

As you already know, it is extremely important for us to have the money in our bank account before publishing our half-year interim financial statement..

For a short-term feedback, I would be grateful.

Best regards

Holger Merz
Geschäftsführer / Managing Director (CFO)

EDAG Engineering GmbH
Reesbergstraße 1 / D - 36039 Fulda
Tel.: +49-661-6000-200 / Mobil: +49-175-2283053
Email: Holger.Merz@edag.com



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— Weitergeleitet von Holger Merz/Fulda/edag am 08/14/2019 08:17 AM —

Von: Tom Wessner <tom.wessner@byton.com>
An: Holger Merz <holger.merz@edag.com>
Kopie: Teresa Shi <teresa.shi@byton.com>, "Cosimo de Carlo@edag.com" <cosimo.de.carlo@edag.com>, "Jürgen Vogt@edag.com" <juergen.vogt@edag.com>, Harald Keller <harald.keller@edag.com>
Datum: 07/29/2019 07:22 AM
Betreff: Re: Byton_ EDAG confirmation of payments

Holger:

Please find attached Byton's confirmation of payment.

[attachment "fb_short_grau_24px.gif" deleted by Holger Merz/Fulda/edag] [attachment "instagram_24px_grau.gif" deleted by Holger Merz/Fulda/edag] [attachment "linkedin_grau_24px.gif" deleted by Holger Merz/Fulda/edag] [attachment "twitter_vogel_grau_24px.gif" deleted by Holger Merz/Fulda/edag] [attachment "ytube_grau_24px.gif" deleted by Holger Merz/Fulda/edag] [attachment "kununu_short_grau_24px.gif" deleted by Holger Merz/Fulda/edag] [attachment "xing_grau_24px.gif" deleted by Holger Merz/Fulda/edag] [attachment "watchado_short_grau_24px.gif" deleted by Holger Merz/Fulda/edag] [attachment "50yearseday_logo_75.jpg" deleted by Holger Merz/Fulda/edag] [attachment "{80BDA66F-7D20-4480-A77D-2DEB8A781FF1}.pdf" deleted by Holger Merz/Fulda/edag] [attachment "ATT00001.htm" deleted by Holger Merz/Fulda/edag]

Von: Holger Merz/Fulda/edag
An: tom.wessner@byton.com
Kopie: teresa.shi@byton.com, coslmo.de.carlo@edag.com, juergen.vogt@edag.com, Harald Keller/Fulda/edag@EDAG
Datum: 07/26/2019 11:19 AM
Betreff: Byton_ EDAG confirmation of payments

Hello Tom,

first of all thank you for the phone call just made. As agreed I send you our confirmation of payments.
We talked intensively the reasons why EDAG needs this confirmation. Please sign it together with Daniel or alternative with Theresa and send it back to me this Saturday.
Looking forward to continue our trustful customer-supplier relationship.

@Theresa for your information:

I am the successor of Juergen Vogt with whom you have been in contact before. Juergen has gone into well-deserved retirement as CFO, but will accompany EDAG until end of the year.

If you have any further question, please contact me whenever you want.

Best regards

Holger Merz
Geschäftsführer / Managing Director (CFO)

EDAG Engineering GmbH
Reesbergstraße 1 / D - 36039 Fulda
Tel.: +49-661-6000-200 / Mobil: +49-175-2283053
Email: Holger.Merz@edag.com

EDAG Overdue Payment Schedule			
Date	Currency		USD
Aug 19th	EUR	1,769,911.50	2,000,000.00
Sep 3rd	EUR	5,309,734.51	6,000,000.00
Sep 20th	EUR	6,000,000.00	6,780,000.00
Oct 11th	EUR	6,700,179.19	7,571,202.49
Total	EUR	19,779,825.21	22,351,202.49

EXHIBIT "B"

CONFIDENTIAL

1 IN ARBITRATION PROCEEDINGS OF
2 JUDICIAL ARBITRATION AND MEDIATION SERVICES, INC.

3
4 EDAG Engineering GmbH,

5 Claimant,

6 vs.

JAMS No. 1100107291

7 Byton North America Corp.,

8 Respondent.

_____/

9
10 *** CONFIDENTIAL ***

11 DEPOSITION OF SADHA KAMESWARAN

12 Person Most Qualified witness for

13 Byton North America Corp.

14 appearing remotely at Menlo Park, California

15 Tuesday, November 17, 2020

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20
21
22 Job No. 4290795

23 Reported by:

Natalie Y. Botelho

24 CSR No. 9897

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1 people? 10:53:47	1 on November 2019. So I think he was asking you to 11:07:37
2 MR. SIPPRELLE: Object; I think he said 10:53:51	2 broadly describe everything you know generally that 11:07:46
3 "IT person," not "people." Go ahead, 10:53:52	3 has been done. 11:07:48
4 Mr. Kameswaran. 10:53:55	4 THE WITNESS: Oh, right from 11:07:51
5 THE WITNESS: I believe I had -- in my 10:54:00	5 November 2019, I know that a lot of effort and a lot 11:07:52
6 last deposition I had incorrectly stated that we 10:54:05	6 of time was spent in collecting every single 11:07:55
7 didn't have access to some of the databases, so I 10:54:10	7 EDAG-related document and provided to EDAG right 11:07:59
8 verified few things with the IT person on the level 10:54:15	8 until couple of weeks back, at the end of December 11:08:05
9 of access that we had on those JIRA and Confluence 10:54:20	9 and the last documents were provided. And we had 11:08:10
10 databases because I wanted to correct my previous 10:54:34	10 limitations after a certain time because of no 11:08:15
11 deposition. 10:54:39	11 personnel available in the company, but until such 11:08:18
12 MR. ESTES: All right. We've been going 10:54:47	12 time, every effort was made to provide everything. 11:08:21
13 for about an hour. Why don't we take a ten-minute 10:54:48	13 And even after that, with the people available, 11:08:26
14 break, come back at five after. 10:54:51	14 Byton took every effort to provide every document 11:08:30
15 MR. SIPPRELLE: All right. Does that 10:54:55	15 that was relevant to this topic. 11:08:36
16 help? Is that okay? 10:54:56	16 MR. ESTES: Q. You said you had 11:08:37
17 THE WITNESS: Yeah, that's good. 10:54:59	17 limitations after a certain time. When was that 11:08:42
18 THE VIDEOGRAPHER: Off the record. The 10:55:01	18 time that the limitations began? 11:08:45
19 time is 10:55 a.m. 10:55:01	19 A. From around end of March time frame, when 11:08:53
20 (Recess taken from 10:55 a.m. to 11:05:23	20 we were furlough -- when we had furloughed people. 11:08:57
21 11:05 a.m.) 11:05:23	21 Q. And that's March 2020? 11:09:01
22 THE VIDEOGRAPHER: Back on the record. 11:05:30	22 A. Correct. 11:09:05
23 The time is 11:05 a.m. 11:05:31	23 Q. You testified at your individual 11:09:17
24 MR. ESTES: Q. Sir, you understand you're 11:05:38	24 deposition that you personally were never asked by 11:09:19
25 still under oath? 11:05:40	25 Byton for documents in your possession that were 11:09:22
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1 A. Yes, I do. 11:05:41	1 relevant to the lawsuit, correct? 11:09:24
2 Q. Did you talk with anyone regarding this 11:05:42	2 MR. SIPPRELLE: Well, I -- 11:09:29
3 deposition over the break? 11:05:44	3 THE WITNESS: Correct. 11:09:30
4 A. No. 11:05:48	4 MR. SIPPRELLE: I'll object to that, but 11:09:31
5 Q. If you go back to Exhibit 84, in paragraph 11:05:51	5 go ahead. I'm not sure that's exactly what he 11:09:31
6 5 it says, "Byton had begun searching for and 11:05:55	6 testified to, but that's fine. 11:09:36
7 collecting documents several months prior to its 11:06:03	7 MR. ESTES: Q. Now testifying as Byton's 11:09:40
8 August 2020 production," correct? 11:06:07	8 most qualified witness, did Byton ask any individual 11:09:42
9 A. Correct. 11:06:15	9 employee to search for or turn over documents 11:09:45
10 Q. In what month did Byton begin searching 11:06:24	10 related to this lawsuit that were in their 11:09:48
11 for and collecting relevant documents? 11:06:27	11 possession? 11:09:50
12 A. I recall from November 2019, early 11:06:34	12 A. I'm not sure I'm understanding the 11:09:58
13 November 2019. 11:06:38	13 question. Could you please elaborate? 11:09:59
14 Q. Can you please describe the steps Byton 11:06:47	14 Q. Sure. You said you were never asked 11:10:03
15 took to search for documents for production in this 11:06:49	15 personally by Byton for documents related to this 11:10:06
16 matter? 11:06:51	16 lawsuit that you possessed, correct? 11:10:09
17 A. I was not personally involved in the 11:07:04	17 A. Yes. 11:10:15
18 search at the time, so I wouldn't know specific 11:07:06	18 Q. Did Byton ask any individual employee to 11:10:18
19 steps that were taken, but I do know and I have seen 11:07:10	19 provide documents that were in their possession 11:10:23
20 e-mail correspondence from that time where a number 11:07:14	20 related to this lawsuit? 11:10:25
21 of documents were collected and provided. 11:07:20	21 A. So as I had mentioned before, the various 11:10:36
22 MR. SIPPRELLE: Mr. Kameswaran, I think 11:07:27	22 functions and relevant documents, whichever function 11:10:41
23 he's asking you -- it was kind of a broad question 11:07:28	23 it belonged to, were collected. I do not know the 11:10:44
24 over the entire time of the litigation, at least as 11:07:30	24 specific people who were contacted, but the relevant 11:10:47
25 I understood the question. Not focused specifically 11:07:35	25 documents were all collected to aid in the purpose 11:10:50
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1	MR. SIPPRELLE: All right.	12:03:42	1	databases. In my deposition, I indicated that I	12:18:00
2	THE WITNESS: Okay.	12:03:45	2	believe that Byton no longer had access to these	12:18:04
3	THE VIDEOGRAPHER: Off the record. The	12:03:46	3	databases due to non-payment of the third-party	12:18:07
4	time is 12:03 p.m.	12:03:46	4	vendors who administer these databases." Did I read	12:18:09
5	(Recess taken from 12:03 p.m. to	12:14:12	5	that correctly?	12:18:13
6	12:15 p.m.)	12:14:12	6	A. Correct.	12:18:14
7	THE VIDEOGRAPHER: On the record. The	12:15:26	7	Q. Why did you think Byton no longer had	12:18:16
8	time is 12:15 p.m.	12:15:26	8	access to the JAMA, JIRA, and Confluence databases?	12:18:18
9	MR. ESTES: Q. Sir, you understand you're	12:15:32	9	A. Because from a financial point of view, I	12:18:24
10	still under oath?	12:15:33	10	knew that we owed money to those third-party	12:18:26
11	A. Yes, I do.	12:15:34	11	providers.	12:18:30
12	Q. Did you speak with anyone about this	12:15:35	12	Q. And --	12:18:32
13	deposition during the break?	12:15:37	13	A. And there was -- and there was protests	12:18:33
14	A. No, I did not.	12:15:40	14	from those vendors and threatening of	12:18:36
15	Q. All right. Going back to Exhibit 84, your	12:15:43	15	discontinuation of service.	12:18:42
16	declaration, paragraph 8 begins with, "In addition	12:15:45	16	Q. And is a third-party vendor different from	12:18:46
17	to employee laptops, Byton documents have been	12:15:50	17	the company that actually owns the -- owns or	12:18:50
18	stored on various servers (JAMA, JIRA and	12:15:52	18	created the JAMA and JIRA and Confluence products	12:18:54
19	Confluence) over the course of the company's	12:15:55	19	themselves?	12:18:56
20	existence." Did I read that correctly?	12:15:58	20	A. I do not know exactly which database goes	12:19:02
21	A. Correct.	12:16:01	21	through which vendor. Sometimes the licenses are	12:19:05
22	Q. And you said earlier that Byton documents	12:16:02	22	sold by some onsellors for one of those companies,	12:19:09
23	have not been stored on any other third-party	12:16:06	23	so I do not know.	12:19:16
24	servers aside from JAMA, JIRA, and Confluence?	12:16:09	24	Q. So you don't know the third-party vendor	12:19:18
25	A. That's correct.	12:16:14	25	that administers the JAMA database, correct?	12:19:21
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1	Q. What kinds of documents were stored on the	12:16:17	1	A. Not sure whether it was JAMA themselves or	12:19:29
2	JAMA database?	12:16:18	2	someone else.	12:19:31
3	A. Sorry. Could you repeat that? You were	12:16:24	3	Q. Do you know when Byton stopped paying the	12:19:35
4	cutting out there.	12:16:26	4	third-party vendor who administers the JAMA	12:19:36
5	Q. What kinds of documents were stored on the	12:16:28	5	database?	12:19:39
6	JAMA database?	12:16:31	6	A. I do not recall a specific date, but all	12:19:45
7	A. Typically product attributes,	12:16:33	7	our payments to vendors started getting affected	12:19:47
8	requirements, and product feature metrics, as in the	12:16:43	8	from about late 2019 time frame.	12:19:53
9	vehicle specifications provided by marketing to the	12:16:49	9	Q. And do you know the third-party vendor	12:20:22
10	engineering team.	12:16:52	10	that administers the JIRA database?	12:20:24
11	Q. What kind of documents are stored on the	12:16:55	11	A. No, I do not know.	12:20:30
12	JIRA database?	12:16:57	12	Q. Do you recall approximately when Byton	12:20:32
13	A. JIRA is basically a engineering change	12:17:02	13	stopped paying the third-party vendor who	12:20:33
14	management system. So all the engineering change --	12:17:05	14	administers the JIRA database?	12:20:35
15	changes that have gone through would go through the	12:17:11	15	A. No, I do not know.	12:20:44
16	JIRA database.	12:17:14	16	Q. And do you know who the third-party vendor	12:20:47
17	Q. What kinds of documents are stored on the	12:17:19	17	who administers the Confluence database is?	12:20:49
18	Confluence database?	12:17:21	18	A. No, do not know the specific name.	12:20:57
19	A. Confluence is where the project	12:17:25	19	Q. Do you know approximately when Byton	12:20:59
20	directories for the different functions were. That	12:17:28	20	stopped paying the third-party vendor who	12:21:00
21	is for a collaboration database, including the	12:17:38	21	administers the Confluence database?	12:21:02
22	project circles and meetings and so on.	12:17:43	22	A. As I said earlier, 2020.	12:21:07
23	Q. The second sentence of paragraph 8 states,	12:17:52	23	Q. Would you estimate that late 2019 or early	12:21:16
24	"I recently gave deposition testimony in this matter	12:17:55	24	2020 is the best approximation of when Byton stopped	12:21:18
25	during which I referenced JAMA, JIRA and Confluence	12:17:58	25	paying the third-party vendor who administers the	12:21:21
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1 JIRA database? 12:21:24	1 Q. It is correct that you do not know whether 12:25:09
2 A. That would be a good estimate. 12:21:30	2 Byton searched the Confluence database to collect 12:25:11
3 Q. Paragraph 8 of Exhibit 84 goes on to say 12:21:34	3 relevant documents prior to August 2020? 12:25:14
4 that "Subsequent to my deposition, I learned that 12:21:37	4 A. When you said "prior to August 2020," like 12:25:30
5 Byton's remaining IT employee has access to the JIRA 12:21:40	5 from November 2019, documents have been searched, so 12:25:33
6 and Confluence databases." Did I read that 12:21:42	6 at any point in time, those databases would have 12:25:37
7 correctly? 12:21:45	7 been searched until when we had issues. 12:25:40
8 A. Correct. 12:21:46	8 Q. So Byton searched the Confluence database 12:25:49
9 Q. How did you learn that Byton had access to 12:21:48	9 at some point from November 20 -- at some point 12:25:51
10 its JIRA and Confluence databases? 12:21:50	10 between November 2019 until when access was revoked? 12:25:55
11 A. I spoke to the IT person after my 12:21:55	11 A. I would be guessing. 12:26:10
12 deposition to confirm, because I was not hundred 12:21:58	12 Q. So sitting here today, you don't know 12:26:13
13 percent sure when I made the deposition, so I 12:22:02	13 whether Byton searched the Confluence database at 12:26:14
14 checked with IT person at that time. 12:22:05	14 some point from November 2019 until when access was 12:26:17
15 Q. Did anyone ask you to check with the IT 12:22:10	15 revoked? 12:26:20
16 person? 12:22:12	16 A. I wouldn't know. 12:26:24
17 A. No. After the deposition, I felt that I 12:22:17	17 Q. And then Byton searched the mirrored 12:26:25
18 was not hundred percent sure about that, so I should 12:22:19	18 server in approximately November or December of 12:26:28
19 check it, so I did that on my own. And I reached 12:22:23	19 2020? 12:26:32
20 out to the counsel to change my -- 12:22:26	20 A. Correct. 12:26:35
21 MR. SIPPRELLE: All right. Hold on, 12:22:30	21 Q. Why didn't Byton search the Confluence 12:26:37
22 Mr. -- don't talk about anything with your attorney. 12:22:31	22 database at some point after this lawsuit was filed 12:26:39
23 Okay? That's privileged. 12:22:35	23 until access was revoked? 12:26:43
24 MR. ESTES: Q. And so then your 12:22:40	24 MR. SIPPRELLE: Well, object; assumes 12:26:46
25 declaration stated that Byton would undertake a 12:22:42	25 facts not in evidence, misstates his testimony. I 12:26:48
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1 reasonable search of these two databases it has 12:22:44	1 I think he said, as he sits here today, he doesn't 12:26:51
2 access to, correct? 12:22:49	2 know if it was or was not. Go ahead, 12:26:55
3 A. Correct. 12:22:51	3 Mr. Kameswaran. 12:27:06
4 Q. Did Byton search the Confluence database 12:22:51	4 THE WITNESS: No, that's correct. And as 12:27:09
5 to collect relevant documents prior to August 2020? 12:22:53	5 I said before, I wouldn't know what was searched 12:27:10
6 A. Would have done if the database was 12:23:10	6 from November time frame and when exactly we had 12:27:14
7 active. I do not know exactly -- exactly when 12:23:13	7 issues with access or anything like that. So any 12:27:20
8 accesses were removed or reinstated, reinstated. 12:23:21	8 statement I make, I would be guessing. 12:27:23
9 Q. So access to Confluence and JIRA were 12:23:29	9 MR. ESTES: Q. Is there anyone still at 12:27:27
10 removed and then reinstated at some time? 12:23:35	10 Byton who would know whether or not the Confluence 12:27:28
11 A. I do not know the specifics, but the IT 12:23:38	11 and JIRA databases were searched from -- strike 12:27:31
12 person had access to the backup server. 12:23:40	12 that. 12:27:36
13 Q. So the Confluence and JIRA databases 12:23:46	13 Does any -- is there anyone currently at 12:27:37
14 searched by Byton were from the backup server rather 12:23:48	14 Byton who would know whether the Confluence database 12:27:40
15 than in the existing databases themselves? 12:23:51	15 was searched from November 2019 until access was 12:27:42
16 A. The mirrored server, as we call it, which 12:24:01	16 revoked? 12:27:44
17 resides in our network. 12:24:04	17 A. There is -- there is no one else. 12:27:51
18 Q. And that's what Byton searched, rather 12:24:06	18 Q. Do you know whether or not Byton searched 12:27:57
19 than the Confluence or JIRA database that access had 12:24:13	19 the JIRA database to collect relevant documents from 12:27:58
20 been revoked from? 12:24:18	20 after this lawsuit was filed -- in the period from 12:28:03
21 A. I do not know the specific search. 12:24:30	21 when after this lawsuit was filed until access was 12:28:06
22 Q. So it is correct that you do not know 12:24:49	22 revoked? 12:28:08
23 whether Byton searched the Confluence database to 12:24:52	23 A. Again, same thing. Wouldn't the -- 12:28:13
24 collect relevant documents prior to August 2020? 12:24:55	24 sitting here today, I wouldn't know what was 12:28:17
25 A. Could you repeat that, please? 12:25:07	25 searched at what time frame, but an additional 12:28:19
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1 supply chain.	17:04:21	1 THE WITNESS: Can I answer that question,	17:08:12
2 Q. Byton had authority to terminate a	17:04:22	2 Keith?	17:08:12
3 supplier from the M-Byte project, correct?	17:04:23	3 MR. SIPPRELLE: I'm sorry. Can you hear	17:08:20
4 A. Who in Byton?	17:04:30	4 me? Sorry. I was on mute. Yeah, you can answer	17:08:21
5 Q. Byton as a company had final authority to	17:04:32	5 the question. It's all a matter of public record.	17:08:25
6 terminate a supplier from the M-Byte project,	17:04:35	6 THE WITNESS: Yes, there are other	17:08:30
7 correct?	17:04:37	7 lawsuits in progress.	17:08:33
8 A. Correct.	17:04:38	8 MR. ESTES: Q. About how many other	17:08:37
9 Q. EDAG did not have the ability to hire a	17:04:41	9 lawsuits are in progress from other suppliers?	17:08:38
10 supplier for the M-Byte project, correct?	17:04:43	10 A. I would say another three or four.	17:08:50
11 A. No.	17:04:52	11 Q. And what is the amount total of the three	17:08:58
12 Q. EDAG didn't -- sorry.	17:04:54	12 to four lawsuits those suppliers are claiming they	17:09:01
13 A. Correct. Your statement is correct.	17:04:55	13 are owed by Byton?	17:09:04
14 Q. And EDAG did not have the ability to	17:04:59	14 A. Well, I don't know the exact figure. I've	17:09:12
15 terminate Byton's other suppliers, correct?	17:05:01	15 not reviewed that detail.	17:09:16
16 A. Correct.	17:05:06	16 Q. Do you know in which cities or states	17:09:18
17 Q. Did Byton ever terminate a supplier from	17:05:07	17 these lawsuits are happening?	17:09:20
18 the M-Byte project?	17:05:10	18 A. In California, as far as I'm aware.	17:09:29
19 A. I'm sure there has been some terminations.	17:05:18	19 Q. Who is CH Reynolds Electric Inc.?	17:09:33
20 Q. Sitting here today, can you recall any --	17:05:23	20 A. Could you repeat that name?	17:09:41
21 can Byton recall any suppliers it has terminated	17:05:27	21 Q. Sure. Who is CH Reynolds Electric Inc.?	17:09:42
22 from the M-Byte project previously?	17:05:30	22 A. Would not have a clue because it's	17:09:51
23 A. Yes, I do recall.	17:05:43	23 probably a smaller indirect supplier and not a	17:09:56
24 Q. Which ones do you recall?	17:05:45	24 production direct parts supplier.	17:10:03
25 A. I recall a supplier by the name	17:05:51	25 Q. Who is Groupware?	17:10:07
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1 Constellium, and there may have been other Chinese	17:05:54	1 A. I think that was a SAS provider, from	17:10:17
2 suppliers. I don't remember the name.	17:06:08	2 memory.	17:10:26
3 Q. What part of the project was Constellium	17:06:11	3 Q. Groupware sued Byton for \$466,000 for	17:10:29
4 contracted to provide services for?	17:06:15	4 breach of contract for failing to pay for IT goods	17:10:32
5 A. I think it was a cross car beam.	17:06:22	5 and services?	17:10:35
6 Q. Has Byton paid all of its suppliers	17:06:27	6 MR. SIPPRELLE: Object; lacks foundation.	17:10:41
7 besides EDAG?	17:06:31	7 THE WITNESS: Sorry, Keith. I couldn't	17:10:48
8 A. No.	17:06:33	8 hear you properly.	17:10:49
9 Q. When did Byton stop paying its other	17:06:34	9 MR. SIPPRELLE: Oh. I said I object as	17:10:50
10 suppliers besides EDAG?	17:06:36	10 lacks foundation. You can answer if you have the	17:10:52
11 A. From around the middle of 2019.	17:06:47	11 information.	17:10:58
12 Q. At the time Byton stopped paying EDAG, did	17:06:53	12 THE WITNESS: Again, I don't know the	17:10:59
13 it stop also paying its other suppliers?	17:06:55	13 exact dollar value, but it was -- it was in that	17:11:00
14 A. That's absolutely correct.	17:06:59	14 order.	17:11:06
15 Q. What's the -- what is Byton's estimate of	17:07:03	15 MR. ESTES: Q. And Groupware has a writ	17:11:09
16 the total amount its other suppliers besides EDAG	17:07:06	16 of attachment issued against Byton for that amount,	17:11:10
17 claim they are owed?	17:07:09	17 correct?	17:11:14
18 A. Besides EDAG in North America?	17:07:23	18 MR. SIPPRELLE: Object; lacks foundation.	17:11:16
19 Q. Correct.	17:07:25	19 THE WITNESS: I do not know the detail.	17:11:24
20 A. I would say roughly \$60 million.	17:07:33	20 Sorry.	17:11:26
21 Q. What about besides EDAG outside of North	17:07:36	21 MR. ESTES: Q. Did Byton post a bond for	17:11:27
22 America?	17:07:40	22 Groupware's writ of attachment?	17:11:29
23 A. 120 to \$140 million.	17:07:53	23 A. Did Byton post what?	17:11:38
24 Q. Byton is presently being sued by other	17:07:59	24 Q. A bond, B-O-N-D.	17:11:39
25 suppliers besides EDAG?	17:08:02	25 A. Not that --	17:11:48
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EXHIBIT "C"

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JAMS ARBITRATION

EDAG ENGINEERING GMBH,)	
)	
Claimant,)	
)	
v.)	JAMS Reference No.
)	1100107291
BYTON NORTH AMERICA CORPORATION,)	
)	
Respondent.)	
_____)	
)	
BYTON NORTH AMERICA CORPORATION,)	
)	
Counter-Claimant,)	
)	
v.)	
)	
EDAG ENGINEERING GMBH,)	
)	
Counter-Respondent.))	
_____)	

C O N F I D E N T I A L

REPORTER'S TRANSCRIPT OF ARBITRATION PROCEEDINGS
 ALL PARTIES APPEARING REMOTELY VIA ZOOM
 FEBRUARY 17, 2021
 ARBITRATOR: HON. WILLIAM J. CAHILL (RET.)

VOLUME VII	REPORTED BY:
PAGES 788 TO 936	SUSAN E. LANSING, CSR NO. 6355

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1 M-Byte out into the market?
 2 A. Yes. As I understood, the program timing at
 3 that time was to launch the car in the fourth quarter of
 4 2019.
 5 Q. And was there a plan at that time as to where
 6 it would be sold first?
 7 A. Yes. The initial launch was planned to be in
 8 China. As I said, with the start of production in Q4 of
 9 2019, with start of sales in China in the first quarter
 10 of 2020, and then, in the summer of 2020 the vehicle was
 11 planned to be launched in U.S. and Europe
 12 simultaneously. So there was a six-month gap between
 13 the China launch and the subsequent launches in U.S. and
 14 Europe.
 15 Q. All right, and when did you join Byton, sir?
 16 A. In July 2017.
 17 Q. And would you please tell us about the various
 18 positions you have held at Byton and your duties and
 19 responsibilities in each position?
 20 A. So I -- my current title, which is also the
 21 title at the time of me joining Byton, I was responsible
 22 for product control and was hired to be responsible for
 23 the product control and business operations function. I
 24 was focused more on the product finance side initially
 25 when I joined, and then, as there was some people

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1 transitioning to other roles within Byton, somewhere
 2 around -- I can't remember exactly, maybe late
 3 2017/early 2018, I also took responsibility, full
 4 responsibility for the North American finance
 5 operations.
 6 Q. And currently what are your duties and
 7 responsibilities at Byton North America?
 8 A. Currently it's a lot broader than what I signed
 9 up for, what my title shows, because there's hardly
 10 anyone left at Byton and I'm managing a lot of things
 11 from facilities to covering a lot of areas where we do
 12 not have people.
 13 Q. And how many employees does Byton North America
 14 currently have, active employees?
 15 A. Unfortunately, the current full-time headcount
 16 is about four, and then we have two people in part-time
 17 capacity on an as-required basis.
 18 Q. At its peak of employment, approximately how
 19 many employees did Byton North America have?
 20 A. If I recall correctly, at its peak we had
 21 somewhere around 550 people.
 22 Q. And now there's you said about four full-time
 23 employees?
 24 A. Correct.
 25 Q. At its peak, of those 550 approximately

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1 employees, how many were engineers?
 2 A. I would say 400 to 420 were engineers.
 3 Q. Why did you join Byton, sir?
 4 A. So I'm an automotive nut, been in the
 5 automotive world for a long long time, and the EV
 6 industry was just picking up in the time I came to the
 7 U.S. and I looked at this opportunity as an opportunity
 8 to transition and grow my career in the EV industry.
 9 And so then I was looking at various companies.
 10 Byton approached me around that same time and I
 11 saw the challenge of working in a startup environment,
 12 the experience I did not have before, as well as being
 13 part of an EV revolution, along with -- it was changing
 14 from, I should say, an automotive sector to an auto tech
 15 sector, if you understand what I mean, so it was getting
 16 more to the technology side of it rather than just the
 17 automotive part of it. So I saw that that's a good
 18 career opportunity.
 19 Q. You mentioned that Byton had around 550
 20 employees at its peak level of employment. When was
 21 that approximately that it reached its peak of
 22 employment?
 23 A. I would say May 2019.
 24 Q. And so what happened with the company going
 25 from 550 employees down to four active employees, what

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1 happened?
 2 A. So in 2018, December, we closed our B-round
 3 funding, we were getting ready to launch the car in
 4 2019, so we were accelerating our employment of
 5 resources and everything to support the launch related
 6 to final design and development activities. So we got
 7 to this point in, say, mid-2019 when we got to 550. And
 8 we were also around the same time planning to close our
 9 C-round of funding somewhere between April and June time
 10 frame in 2019. So it was all positive and we were
 11 working through the various funding rounds and the
 12 relations at that time to close the C-round by middle of
 13 2019.
 14 Unfortunately, there was quite a few issues
 15 that came up around that time. One was -- I should say,
 16 it was a perfect storm. One was we were finding it
 17 difficult to close the funding because of, I should say,
 18 intercontinental relations between U.S. and China.
 19 There was a lot of speculation on the China side as to
 20 what would happen and how the -- and the U.S. government
 21 at the time would be with Chinese-owned companies and so
 22 on. So a lot of the investors were worried about
 23 putting money and that dragged along a bit.
 24 And then we had some investor options from
 25 within China who were interested in putting money, they

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4 (Pages 797 - 800)

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<p>1 MR. ESTES: Kristin, you can pull that down.</p> <p>2 Q. And you didn't speak to Mr. Tom Wessner to</p> <p>3 prepare as Byton's most qualified witness; right?</p> <p>4 A. No.</p> <p>5 Q. You didn't seek to Mr. David Twohig to prepare</p> <p>6 to testify as Byton's most qualified witness; right?</p> <p>7 A. I did read the depositions and declarations,</p> <p>8 but I don't recall talking to him specifically.</p> <p>9 Q. And same with Mr. Shawn Slovesko: You didn't</p> <p>10 speak with him to prepare to testify as Byton's most</p> <p>11 qualified witness; right?</p> <p>12 MR. SIPPRELLE: I'm sorry, we lost the sound</p> <p>13 there.</p> <p>14 MR. ESTES: I'll ask the question again.</p> <p>15 Q. You didn't speak with Shawn Slovesko to prepare</p> <p>16 to testify as Byton's most qualified witness; right?</p> <p>17 A. So you are referring to the November</p> <p>18 deposition?</p> <p>19 Q. Correct.</p> <p>20 A. That is correct. Again, I did read his</p> <p>21 deposition and any other details, but not -- did not</p> <p>22 speak with him.</p> <p>23 Q. Dr. Daniel Kirchert is a former Byton CEO?</p> <p>24 A. Correct.</p> <p>25 Q. You didn't speak with Daniel Kirchert to</p> <p style="text-align: right;">Page 849</p>	<p>1 confirms it will fulfill this payment amounting to</p> <p>2 EUR 19,779,825.21 (overdues until August 17th, 2019,</p> <p>3 interests included) before other creditors are paid.</p> <p>4 Byton plans on fulfilling this payment latest August</p> <p>5 18th, 2019."</p> <p>6 Did I read that correctly?</p> <p>7 A. Yes.</p> <p>8 Q. Byton did not fulfill the 19.7 million euro</p> <p>9 payment to EDAG on or before August 18th, 2019; right?</p> <p>10 A. That is correct.</p> <p>11 Q. Byton North America Corporation hasn't paid any</p> <p>12 creditors other than fundamental site operational costs</p> <p>13 and payroll costs since signing the July 28, 2019 Letter</p> <p>14 of Confirmation?</p> <p>15 A. That's correct.</p> <p>16 Q. Byton says nothing about EDAG engineering</p> <p>17 errors in this July 28, 2019 Letter of Confirmation,</p> <p>18 right?</p> <p>19 MR. SIPPRELLE: Object; argumentative, document</p> <p>20 speaks for itself.</p> <p>21 THE ARBITRATOR: No, go ahead and answer that,</p> <p>22 yeah.</p> <p>23 THE WITNESS: Could you slow down, please?</p> <p>24 You're going too fast there.</p> <p>25 Q. BY MR. ESTES: Byton says nothing about EDAG</p> <p style="text-align: right;">Page 851</p>
<p>1 prepare to testify as Byton's most qualified witness at</p> <p>2 deposition; right?</p> <p>3 A. That is correct.</p> <p>4 Q. Carsten Breitfeld is a former Byton CEO?</p> <p>5 A. Yes.</p> <p>6 Q. You didn't speak with Mr. Breitfeld to prepare</p> <p>7 to testify as Byton's most qualified witness; right?</p> <p>8 A. That's correct.</p> <p>9 Q. And in fact, you didn't speak with anyone at</p> <p>10 Byton other than attorneys to prepare for your testimony</p> <p>11 as Byton's most qualified witness; right?</p> <p>12 A. And, yeah, internal, internal Legal Team.</p> <p>13 MR. ESTES: All right, Kristin if we could put</p> <p>14 up Exhibit 151 again, please.</p> <p>15 THE WITNESS: Just to clarify my last answer,</p> <p>16 most of these people that you mentioned were not with</p> <p>17 the company by the time I testified so I did not have</p> <p>18 access to those people except for Ms. Teresa Shi who was</p> <p>19 still with the company at that time.</p> <p>20 MR. ESTES: If we can turn back to the third</p> <p>21 page, Kristin, please.</p> <p>22 Q. Second paragraph of this document states,</p> <p>23 "Byton herewith confirms that these dues are to be paid</p> <p>24 in full as soon as the 'bridging loan' is accomplished</p> <p>25 and the funds have been received by Byton. Byton</p> <p style="text-align: right;">Page 850</p>	<p>1 engineering errors in this July 28, 2019 Letter of</p> <p>2 Confirmation; correct?</p> <p>3 A. Correct.</p> <p>4 Q. Byton never asked EDAG to discount the amount</p> <p>5 it was owed because of engineering errors or otherwise?</p> <p>6 A. That is correct.</p> <p>7 MR. ESTES: Kristin, can we pull up Exhibit</p> <p>8 156, please.</p> <p>9 Q. Sir, are you familiar with this document?</p> <p>10 A. Can you make it a little bit bigger, please, so</p> <p>11 that I can read it?</p> <p>12 Yes, I am.</p> <p>13 Q. This is an August 16, 2019 e-mail from Tom</p> <p>14 Wessner to Holger Merz, and he says he's attaching a</p> <p>15 revised payment plan.</p> <p>16 A. Okay.</p> <p>17 Q. And if we go to the last page, page 5, that's</p> <p>18 Mr. Wessner's payment plan; correct?</p> <p>19 A. Yes, as I recall, yes.</p> <p>20 Q. It's entitled "EDAG Overdue Payment Schedule";</p> <p>21 right?</p> <p>22 A. Yes.</p> <p>23 Q. Byton never paid EDAG 1.7 million euro on</p> <p>24 August 19th; right?</p> <p>25 A. No.</p> <p style="text-align: right;">Page 852</p>

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EXHIBIT "D"

E-FILED
10/8/2019 4:43 PM
Clerk of Court
Superior Court of CA,
County of Santa Clara
19CV356373
Reviewed By: Yuet Lai

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Attorneys for Plaintiff
GROUPWARE TECHNOLOGY, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

GROUPWARE TECHNOLOGY, INC., a
California corporation,

Plaintiff,

v.

BYTON NORTH AMERICA
CORPORATION, a Delaware corporation;
and DOES 1 through 10, inclusive

Defendants.

CASE NO. 19CV356373

COMPLAINT FOR:

- 1. BREACH OF CONTRACT; AND**
- 2. COMMON COUNTS**

UNLIMITED JURISDICTION

1 Plaintiff Groupware Technology, Inc. complains of Defendants, and each of them, and
2 alleges:

3 **PARTIES**

4 1. Plaintiff Groupware Technology, Inc. ("GTI" or "Plaintiff") is a company
5 organized and existing under the laws of the State of California and has its principal place of
6 business in Santa Clara County, State of California.

7 2. GTI is informed and believes, and so alleges, that Defendant Byton North America
8 Corporation ("Byton" or "Defendant") is a corporation organized and existing under the laws of
9 the State of California with its principal place of business at 4201 Burton Drive, Santa Clara, CA
10 95054.

11 3. The true names and capacities of DOES 1 through 10 are unknown to GTI, who
12 therefore sues them by such fictitious names. GTI prays leave to amend this Complaint to show
13 the true names and capacities of said DOES when the same has been ascertained. GTI is
14 informed and believes, and so alleges, that each of said DOES is responsible for GTI's damages
15 as hereinafter alleged and described.

16 4. GTI is informed and believes, and based thereon alleges, that Defendants, and each
17 of them, are, and at all times herein mentioned were, the agents, servants, employees, and
18 representatives of their Co-Defendants, and were at all times herein mentioned acting within the
19 scope, purpose, and authority of such agency, service, employment, and representation, and with
20 the permission, knowledge, and the consent of their Co-Defendants; any reference hereinafter to
21 "Defendants" is intended by GTI to refer to "Defendants, and each of them."

22 5. GTI is informed and believes, and so alleges, that the Defendants, and each of
23 them, were the agent, partner, employee and/or alter ego of one or more of the remaining
24 Defendants and in doing the things herein alleged was acting within the course and scope of said
25 agency, partnership, and/or employment.

26 **GENERAL ALLEGATIONS**

27 6. GTI is a company that provides IT goods and services, including subscriptions to
28 various software programs designed to enhance its customers IT capabilities.

7. All products and services GTI offers for sale are subject to the GTI's Terms and Conditions for the Sales of Goods and Services (the "Terms & Conditions"). A true and correct copy of GTI's Terms & Conditions is attached hereto as **Exhibit A** and is incorporated by reference.

8. Between February 2019 and March 2019, Byton placed 7 purchase orders with GTI for goods and services (the "Purchase Orders"). The Purchase Orders are attached hereto as **Exhibit B** and incorporated by reference. As reflected in the purchase orders, in total Byton ordered \$466,562.03 worth of goods and services from GTI.

9. GTI timely delivered all goods and services that Byton ordered in the Purchase Orders.

10. Additionally, pursuant to GTI's Terms and Conditions, GTI issued invoices to Byton for the amounts due and owing (the "Invoices"). The Invoices are attached hereto as **Exhibit C**.

11. While GTI complied with the parties' contract and provided the goods and services requested, Byton has failed and refused to make any payment to GTI. As a result, Byton's outstanding balance for the goods and services provided is \$466,562.03.

12. Despite GTI's demands for payment, Byton has refused, and continues to refuse, to pay GTI the \$466,562.03 due and owing.

FIRST CAUSE OF ACTION
(Breach Of Contract)

13. GTI incorporates herein by reference, as though separately set forth herein, the allegations contained in paragraphs 1 through 12 above, inclusive.

14. GTI and Byton entered into a written agreement, comprised of the Purchase Orders, Invoices, and Terms & Conditions, wherein GTI was to provide the products and services ordered in exchange for payment by Byton.

15. GTI has performed all conditions, covenants and promises under the parties' agreement, except for those terms, covenants, and conditions that were excused or otherwise discharged as a result of Byton's breach, non-performance or waiver.

16. Byton breached the parties' agreement by, among other things, failing to pay for the goods and services provided by GTI.

17. As a direct and proximate result of Byton's breach of the parties' agreement, GTI has sustained damages in an amount to be determined at trial, but not less than \$466,562.03.

18. Pursuant to the Terms & Conditions, GTI is entitled to recover attorneys' fees and costs in connection with this dispute. As a direct and proximate cause of Byton's aforementioned breaches of the parties' agreement, GTI has retained Hopkins & Carley and has incurred and will continue to incur attorneys' fees and costs of suit in connection therewith, according to proof at trial.

WHEREFORE, GTI prays for judgment against Byton as set forth below.

SECOND CAUSE OF ACTION
(Common Counts – Quantum Meruit)

19. GTI incorporates herein by reference, as though separately set forth herein, the allegations contained in paragraphs 1 through 18 above, inclusive.

20. Within the last two (2) years, in Santa Clara County, California, at the instance and request of Byton, GTI provided goods and services to Byton, in the total amount of at least \$466,562.03. Said sum constitutes the reasonable value of the goods and services provided to Byton by GTI.

21. Byton promised to pay GTI for the reasonable value of said goods and services goods.

22. There remains due, owing, and unpaid to GTI from Byton the amount of not less than \$466,562.03, plus interest thereon at the maximum legal rate, all according to proof at the time of trial.

23. Although demand has been made for the amounts due and owing, none of the balance has been paid.

WHEREFORE, GTI prays for judgment against Byton as set forth below.

PRAYER FOR RELIEF

1. For damages in an amount to be proven at trial according to proof, but not less than \$466,562.03;
2. For interest, according to proof;
3. For reasonable attorney's fees and costs as provided for in the parties' agreement;
3. For costs of suit herein; and
4. For such other and further relief as the Court deemed just and proper.

Dated: October 7, 2019

HOPKINS & CARLEY
A Law Corporation

By: 
Ernest M. Malaspina
Jedidiah L. Dooley
Attorneys for Plaintiff
GROUPWARE TECHNOLOGY, INC.

EXHIBIT "E"

C O N F I D E N T I A L

JAMS ARBITRATION

EDAG ENGINEERING GmbH,)
)
Claimant,)
)
v.) JAMS Reference No.
) 1100107291
BYTON NORTH AMERICA CORPORATION,)
)
Respondent.)
_____)
)
BYTON NORTH AMERICA CORPORATION,)
)
Counter-Claimant,)
)
v.)
)
EDAG ENGINEERING GmbH,)
)
Counter-Respondent.)
_____)

C O N F I D E N T I A L

REPORTER'S TRANSCRIPT OF ARBITRATION PROCEEDINGS

ALL PARTIES APPEARING REMOTELY VIA ZOOM

MONDAY, FEBRUARY 8, 2021

ARBITRATOR: HON. WILLIAM J. CAHILL (RET.)

VOLUME I

JOB NO. 4384677

REPORTED BY: SUSAN E. LANSING, CSR NO. 6355

PAGES 1 - 100

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1 THE ARBITRATOR: Thanks for asking me. You
 2 want the contract price plus interest. Is there an
 3 attorneys' fees clause in this?
 4 MS. BURBIDGE: There is not an attorneys' fees
 5 clause. We are seeking the statutory interest as well,
 6 your Honor.
 7 THE ARBITRATOR: Okay. All right. All right.
 8 I've got it. So, thank you.
 9 Mr. Sipprelle, are you going to be next?
 10 MR. SIPPRELLE: I will be next, your Honor.
 11 Could we take a five-minute break? I just need to run
 12 to the restroom.
 13 THE ARBITRATOR: If you run it's okay.
 14 MR. SIPPRELLE: I'm going to run, yes.
 15 THE ARBITRATOR: 9:30 we'll be back.
 16 MR. SIPPRELLE: 9:30?
 17 THE ARBITRATOR: 9:30. Fifteen minutes.
 18 (A recess was taken.)
 19 MR. SIPPRELLE: Good morning, your Honor. My
 20 name is Keith Sipprelle and I will be trying this case
 21 along with my co-counsel and partner David Van Etten.
 22 We represent Byton North America Corporation, and I'll
 23 refer to Byton North America during the hearing as Byton
 24 just to keep things a little simpler. One of Byton's
 25 senior employees, Mr. Sadha Kameswaran, is attending

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1 today along with Evelyn Shimazaki, one of the in-house
 2 attorneys.
 3 Let me start by talking a little about the
 4 parties. And I don't want to repeat things that
 5 Ms. Burbidge said, but I'll fill in a few gaps. So
 6 let's talk about Byton first of all. Byton is an
 7 electric car startup company. It's located in Santa
 8 Clara, California, and it was created in 2016 for the
 9 purpose of designing, developing, manufacturing and
 10 delivering electric automobiles for the consumer market.
 11 It was originally known by another name, "Future
 12 Mobility," but the name was changed to "Byton" in around
 13 2017.
 14 So Byton's initial electric vehicle was called
 15 the "M-Byte." It was an all-electric, battery-powered
 16 sport utility vehicle, and Byton's plan was to launch
 17 the M-Byte in China initially by 2021, this year, and
 18 subsequently to sell the M-Byte in the United States and
 19 Europe. As Ms. Burbidge indicated, Byton was a startup
 20 company. It had no product, no sales revenue, and was
 21 dependent upon outside funding to get the M-Byte built
 22 and into the consumer market.
 23 Ms. Burbidge talked about EDAG, her client, and
 24 EDAG, as Ms. Burbidge indicated, is an engineering
 25 company, large public company, based in Germany. The

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1 EDAG entity involved in this case is part of the EDAG
 2 Group which is one of the world's largest independent
 3 development partners for the automotive industry.
 4 I want to spend a little time talking about who
 5 I believe is going to be one of the key witnesses,
 6 perhaps the key witness in this case, and that's
 7 Mr. David Twohig.
 8 THE ARBITRATOR: David what?
 9 MR. SIPPRELLE: David Twohig. And let me spell
 10 the name for you. It's spelled a little bit different
 11 than it sounds. T-w-o-h-i-g, pronounced "Twohig."
 12 THE ARBITRATOR: Okay.
 13 MR. SIPPRELLE: So, Mr. Twohig is an electrical
 14 engineer with extensive experience in the automotive
 15 industry. Mr. Twohig joined Byton in March of 2018 as
 16 the company's Chief Vehicle Engineer and he was later
 17 promoted to Chief Technical Officer. But he left Byton
 18 in February of 2020, approximately a year ago. He's now
 19 working at another company.
 20 During his tenure at Byton Mr. Twohig was
 21 essentially in charge of Byton's engineering effort with
 22 respect to the development of the M-Byte. Mr. Twohig
 23 has a long history in the automotive industry. Prior to
 24 joining Byton he was employed at a number of large
 25 automotive companies including Nissan and Renault. His

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1 experience at Renault is particularly german to this
 2 proceeding.
 3 At Renault Mr. Twohig was responsible for
 4 engineering the development of Renault's Zoe, pronounced
 5 "Zoe" but spelled Z-o-e, Zoe, battery electric vehicle
 6 which was one of the world's first true and usable and
 7 affordable electric vehicles. It was launched in 2012
 8 in France and then in 2013 in much of the rest of
 9 Europe.
 10 And if we could pull up trial Exhibit 212,
 11 David, just to show this. This is Mr. Twohig's LinkedIn
 12 profile. It's Trial Exhibit 212 so it may take a moment
 13 for that to come up.
 14 So we can see here, if you can scroll down,
 15 David, just to the portion that I've highlighted, which
 16 is Mr. Twohig's, I believe it's on the second page,
 17 Mr. Twohig's work at Renault on the Zoe electric
 18 vehicle. Dave, can you scroll that down.
 19 MR. VAN ETEN: It is scrolled on my screen.
 20 MR. SIPPRELLE: We're not seeing it. We're
 21 seeing it off to the right but we don't see the --
 22 THE ARBITRATOR: We'll all get better at this.
 23 MR. SIPPRELLE: Here we go. So that's a little
 24 small, I don't know if you can expand the view a little
 25 bit.

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EXHIBIT "F"

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Hanon Systems USA, LLC,
Hanon Systems Deutschland GmbH,
Hanon Systems (Dalian) Co., Ltd., and
Hanon Jie Xi Si Systems (Nanjing) Co., Ltd.*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

HANON SYSTEMS, HANON SYSTEMS
USA, LLC, HANON SYSTEMS
DEUTSCHLAND GMBH, HANON
SYSTEMS (DALIAN) CO., LTD., and
HANON JIE XI SI SYSTEMS (NANJING)
CO., LTD.

Plaintiffs,

v.

BYTON NORTH AMERICA
CORPORATION,

Defendant.

Case No. 5:20-cv-01983

COMPLAINT FOR DAMAGES FOR:

- 1. BREACH OF CONTRACT**
- 2. PROMISSORY ESTOPPEL**
- 3. UNJUST ENRICHMENT**

1 Plaintiffs Hanon Systems, Hanon Systems USA, LLC (“Hanon USA”), Hanon Systems
2 Deutschland GmbH (“Hanon Germany”), Hanon Systems (Dalian) Co., Ltd. (“Hanon Dalian”),
3 and Hanon Jie Xi Si Systems (Nanjing) Co., Ltd. (“Hanon Nanjing”), for their complaint against
4 Defendant Byton North America Corporation (“Byton”), allege as follows:

5 **NATURE OF THE ACTION**

6 This is an action for damages caused by Defendant’s breaches of automotive supply
7 contracts between Plaintiffs and Defendant, including recovery of all amounts owed for goods and
8 services ordered by and received by Defendant, and for which Defendant has failed to pay.
9 Plaintiffs also seeks to recover interest, attorney fees and costs.

10 **PARTIES**

11 1. Plaintiff Hanon Systems is a South Korean corporation whose principal place of
12 business is in South Korea.

13 2. Plaintiff Hanon USA is a Delaware limited liability company. Hanon USA’s sole
14 member is Hanon Systems. Hanon USA is therefore a citizen of South Korea for purposes of
15 diversity jurisdiction.

16 3. Plaintiff Hanon Germany is a German corporation whose principal place of
17 business is located in Germany.

18 4. Plaintiff Hanon Dalian is a Chinese corporation whose principal place of business
19 is located in China.

20 5. Plaintiff Hanon Nanjing is a Chinese corporation whose principal place of business
21 is located in China.

22 6. Defendant Byton is a Delaware corporation whose principal place of business is
23 located in Santa Clara, California. Byton is therefore a citizen of Delaware and California for
24 purposes of diversity jurisdiction.

25 7. The Court has diversity jurisdiction over this action under 28 U.S.C. § 1332(a)(2)
26 because Plaintiffs are all citizens of foreign states and Defendant is a citizen of a state, and the
27 amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

1 8. This Court is the appropriate venue for this action under 28 U.S.C. § 1391(b)(1)
2 because Byton resides in this judicial district.

3 9. This Court is also the appropriate venue for this action based on the venue
4 provisions of three different contract awards issued by Byton to Hanon Systems (as further
5 detailed below).

6 10. Byton is subject to personal jurisdiction in this Court.

7 **INTRADISTRICT ASSIGNMENT**

8 11. Pursuant to Civil L.R. 3-2(c), this action should be assigned to the San Jose
9 Division because Byton's principal place of business is located in Santa Clara County and a
10 substantial part of the events or omissions giving rise to the claims occurred within Santa Clara
11 County.

12 **GENERAL BACKGROUND**

13 12. Hanon Systems and its subsidiaries and affiliates operate as leading global supplier
14 of automotive thermal and energy management solutions.

15 13. Byton holds itself out as "a manufacturer of intelligent electric cars."

16 14. On July 1, 2018, Byton issued a contract award to Hanon Systems to design,
17 develop, manufacture and supply 100% of Byton's requirements for certain automotive parts over
18 a seven year period, with production expected to begin in October of 2019 ("Contract Award #1").

19 15. On July 1, 2018, Byton also issued a second contract award to Hanon Systems to
20 design, develop, manufacture and supply 100% of Byton's requirements for certain other
21 automotive parts over a seven year period, with production expected to begin in October of 2019
22 ("Contract Award #2").

23 16. On September 24, 2018, Byton issued a third contract award to Hanon Systems to
24 design, develop, manufacture and supply 100% of Byton's requirements for certain other
25 automotive parts over a seven year period, with production expected to begin in October of 2019
26 ("Contract Award #3").
27
28

17. Contract Award #1, Contract Award #2, and Contract Award #3 are hereinafter collectively referred to as the “Contract Awards”.¹

18. In reliance on the Contract Awards (and subsequent purchase orders detailed below), and in order to be able to timely meet its obligations to Byton, Hanon Systems and its subsidiaries, including Hanon USA, Hanon Germany, and Hanon Dalian, made substantial capital and other investments.

19. Byton knew, or should have reasonably expected, that Plaintiffs would be induced and required to make such investments in order to timely perform their obligations.

20. Byton issued a series of purchase orders to Hanon USA and Hanon Germany pursuant to the Contract Awards, requesting that Hanon Systems and its subsidiaries and affiliates provide certain engineering, design and development services, and prototype parts, to Byton that would assist Byton in the development of its vehicles (collectively, the “Part Purchase Orders”).

21. Byton also issued a series of purchase orders to Hanon USA, Hanon Germany, Hanon Dalian, and Hanon Nanjing pursuant to the Contract Awards to develop and manufacture certain tooling needed to supply the parts to Byton under the Contract Awards and which was intended to be owned by Byton once manufactured (collectively, the “Tooling Purchase Orders”).

22. The Part Purchase Orders and Tooling Purchase Orders are hereinafter referred to collectively as the “Purchase Orders”.

23. Plaintiffs performed their obligations under the Contract Awards and Purchase Orders and otherwise met all conditions precedent, if any, to payment and performance of Byton’s reciprocal obligations.

24. Plaintiffs submitted invoices to Byton.

25. For a time, Byton paid Plaintiffs’ invoices.

26. However, starting around April of 2019, Byton began to become severely delinquent in payments to Plaintiffs.

¹ All of the documents referenced in this Complaint are in the possession of Byton and are, or may be, subject to an existing non-disclosure agreement between the parties. Plaintiffs will seek to file them under seal following entry of an appropriate protective order by the Court.

27. On June 11, 2019, Plaintiffs formally notified Byton that if Byton did not bring its account current by June 18, 2019 or provide other adequate assurance of performance, Plaintiffs would be required to suspend further performance under the Contract Awards and Purchase Orders, which could impact the expected start of production.

28. Byton did not dispute the invoices but claimed financial inability to perform its own payment and performance obligations under the Contract Awards and Purchase Orders.

29. Accordingly, Plaintiffs suspended further performance.

30. On August 9, 2019, Byton advised Plaintiffs that Byton was expecting to receive funding imminently that would allow Byton to bring its account current so that Plaintiffs could resume performance. However, thereafter Byton failed to make any payments to bring its account current.

31. Due to its own financial difficulties and/or operational difficulties, Byton delayed the expected start of production of its vehicles in October of 2019, and to this day Byton has still not started production of the vehicles for which the Contract Awards and Purchase Orders were issued to Plaintiffs.

32. On January 5, 2020, Byton publicly announced that its “Series C financing” was entering its “final stage”, and Byton again advised Plaintiffs that Byton would soon be in a financial position to bring its account with Plaintiffs current and to start production. However, again Byton failed to make any payments whatsoever.

33. On March 4, 2020, Plaintiffs’ counsel issued Byton a letter demanding payment of the past due invoices issued against the Part Purchase Orders in full by no later than March 19, 2020, and Plaintiff’s counsel further advised Byton that failure to comply would result in legal action to recover all damages caused by Byton’s breaches of contract.

34. Byton did not comply with Plaintiffs’ demand, thereby necessitating this lawsuit.

COUNT I – BREACH OF CONTRACT

35. Plaintiffs incorporate by reference the allegations set forth in paragraphs 1 through 33 above as though fully set forth herein.

36. The Contract Awards and Purchase Orders constitute binding contracts between Plaintiffs and Byton.

37. Byton's actions above constitute a total breach of the Contract Awards and Purchase Orders, which have caused Plaintiffs millions of dollars in damages.

38. More specifically, Byton's breaches of contract have caused Plaintiffs the following damages in the total amount of at least \$2,018,937² (exclusive of lost future profits):

- a. \$718,840 = amount due and owing to Plaintiffs under the Part Purchase Orders for goods and services delivered;
- b. \$27,111 = amount due and owing to Plaintiffs under the Part Purchase Orders for goods assembled but not yet delivered pending adequate assurance of payment (which Plaintiffs have not received);
- c. \$398,572 = balance remaining under Tooling Purchase Orders; and
- d. \$874,414 = Plaintiffs' unrecovered capital and other investments incurred in reliance on, and in order to perform, the Contract Awards and Purchase Orders.

39. Accordingly, Plaintiffs are entitled to recover from Byton all damages caused by Byton's breaches of contract, in an amount not less than \$2,018,937, plus interest, attorney fees and costs as provided by law.

COUNT II – PROMISSORY ESTOPPEL

40. Plaintiffs incorporate by reference the allegations set forth in paragraphs 1 through 39 above as though fully set forth herein.

41. In the alternative, the Contract Awards and Purchase Orders constitute promises by Byton to Plaintiffs which Byton should have reasonably expected to induce action on the part of Plaintiffs.

42. In reasonable reliance on the Contract Awards and Purchase Orders, Plaintiffs were induced to take the actions set forth in paragraphs 18 through 23 above.

43. The circumstances are such that injustice can be avoided only by enforcement of Byton's promises.

² Some of Plaintiffs' invoices and investments were in currencies other than U.S. dollars. For purposes of this Complaint, damages have been estimated in equivalent U.S. dollars based on recent conversion rates.

44. Accordingly, Plaintiffs are entitled to recover from Byton all reliance and other damages caused by Byton's breaches of its promises, in an amount not less than \$2,018,937, plus interest, attorney fees and costs as provided by law.

COUNT III – UNJUST ENRICHMENT

45. Plaintiffs incorporate by reference the allegations set forth in paragraphs 1 through 44 above as though fully set forth herein.

46. In the alternative, Byton has been unjustly enriched at the expense of Plaintiffs because Plaintiffs provided engineering, design and development services, and provided prototype parts and manufactured tooling for Byton, for which Plaintiffs have not been fully compensated.

47. The circumstances are such that it would be inequitable for Byton to retain the benefit of Plaintiffs' efforts without payment to Plaintiffs for the value provided.

48. Accordingly, Plaintiffs are entitled to recover from Byton quantum meruit or restitution damages in an amount not less than \$2,018,937, plus interest, attorney fees and costs as provided by law.

PRAYER FOR RELIEF

Plaintiffs pray for judgment against Defendant Byton as follows:

1. For compensatory damages, reliance damages, quantum meruit and/or restitution in the amount of at least \$2,018,937;
2. For all other direct, indirect, incidental and consequential damages incurred;
3. For interest as provided by law;
4. For attorney fees and costs as provided by law; and
5. For such further relief as the Court deems just and equitable.

1 Dated: March 20, 2020

Respectfully submitted,

2 DICKINSON WRIGHT RLLP

3 /s/ Jonathan D. Baker

Jonathan D. Baker (SBN 196062)

4 jdbaker@dickinsonwright.com

800 W. California Avenue, Suite 110

5 Sunnyvale, CA 94086

6 Phone: 408-701-6180

7 Fax: 844-670-6009

Attorneys for Plaintiffs

8
9 4836-3931-1543 v12 [65113-1]

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

HANON SYSTEMS, HANON SYSTEMS USA, LLC, HANON SYSTEMS DEUTSCHLAND GMBH, HANON SYSTEMS (DALIAN) CO., LTD., and HANON JIE XI SI SYSTEMS (NANJING) CO., LTD.

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Jonathan D. Baker (SBN 196062)
DICKINSON WRIGHT RLLP, 800 W. California Avenue, Suite 110,
Sunnyvale, CA 94086, Telephone: 408-701-6180

DEFENDANTS

BYTON NORTH AMERICA CORPORATION

County of Residence of First Listed Defendant Santa Clara
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1

U.S. Government Plaintiff

2

U.S. Government Defendant

3

Federal Question
(U.S. Government Not a Party)

4

Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input checked="" type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<div>110 Insurance</div> <div>120 Marine</div> <div>130 Miller Act</div> <div>140 Negotiable Instrument</div> <div>150 Recovery of Overpayment Of Veteran's Benefits</div> <div>151 Medicare Act</div> <div>152 Recovery of Defaulted Student Loans (Excludes Veterans)</div> <div>153 Recovery of Overpayment of Veteran's Benefits</div> <div>160 Stockholders' Suits</div> <div><input checked="" type="checkbox"/> 190 Other Contract</div> <div>195 Contract Product Liability</div> <div>196 Franchise</div>	<div><div>PERSONAL INJURY</div><div>310 Airplane</div><div>315 Airplane Product Liability</div><div>320 Assault, Libel & Slander</div><div>330 Federal Employers' Liability</div><div>340 Marine</div><div>345 Marine Product Liability</div><div>350 Motor Vehicle</div><div>355 Motor Vehicle Product Liability</div><div>360 Other Personal Injury</div><div>362 Personal Injury -Medical Malpractice</div></div> <div><div>PERSONAL INJURY</div><div>365 Personal Injury – Product Liability</div><div>367 Health Care/ Pharmaceutical Personal Injury Product Liability</div><div>368 Asbestos Personal Injury Product Liability</div></div> <div><div>PERSONAL PROPERTY</div><div>370 Other Fraud</div><div>371 Truth in Lending</div><div>380 Other Personal Property Damage</div><div>385 Property Damage Product Liability</div></div> <div><div>CIVIL RIGHTS</div><div>440 Other Civil Rights</div><div>441 Voting</div><div>442 Employment</div><div>443 Housing/ Accommodations</div><div>445 Amer. w/Disabilities– Employment</div><div>446 Amer. w/Disabilities–Other</div><div>448 Education</div></div> <div><div>PRISONER PETITIONS</div><div>HABEAS CORPUS</div><div>463 Alien Detainee</div><div>510 Motions to Vacate Sentence</div><div>530 General</div><div>535 Death Penalty</div></div> <div><div>OTHER</div><div>540 Mandamus & Other</div><div>550 Civil Rights</div><div>555 Prison Condition</div><div>560 Civil Detainee– Conditions of Confinement</div></div>	<div>625 Drug Related Seizure of Property 21 USC § 881</div> <div>690 Other</div> <div><div>LABOR</div><div>710 Fair Labor Standards Act</div><div>720 Labor/Management Relations</div><div>740 Railway Labor Act</div><div>751 Family and Medical Leave Act</div><div>790 Other Labor Litigation</div><div>791 Employee Retirement Income Security Act</div></div> <div><div>IMMIGRATION</div><div>462 Naturalization Application</div><div>465 Other Immigration Actions</div></div>	<div>422 Appeal 28 USC § 158</div> <div>423 Withdrawal 28 USC § 157</div> <div><div>PROPERTY RIGHTS</div><div>820 Copyrights</div><div>830 Patent</div><div>835 Patent–Abbreviated New Drug Application</div><div>840 Trademark</div></div> <div><div>SOCIAL SECURITY</div><div>861 HIA (1395ff)</div><div>862 Black Lung (923)</div><div>863 DIWC/DIWW (405(g))</div><div>864 SSID Title XVI</div><div>865 RSI (405(g))</div></div> <div><div>FEDERAL TAX SUITS</div><div>870 Taxes (U.S. Plaintiff or Defendant)</div><div>871 IRS–Third Party 26 USC § 7609</div></div>	<div>375 False Claims Act</div> <div>376 Qui Tam (31 USC § 3729(a))</div> <div>400 State Reapportionment</div> <div>410 Antitrust</div> <div>430 Banks and Banking</div> <div>450 Commerce</div> <div>460 Deportation</div> <div>470 Racketeer Influenced & Corrupt Organizations</div> <div>480 Consumer Credit</div> <div>485 Telephone Consumer Protection Act</div> <div>490 Cable/Sat TV</div> <div>850 Securities/Commodities/ Exchange</div> <div>890 Other Statutory Actions</div> <div>891 Agricultural Acts</div> <div>893 Environmental Matters</div> <div>895 Freedom of Information Act</div> <div>896 Arbitration</div> <div>899 Administrative Procedure Act/Review or Appeal of Agency Decision</div> <div>950 Constitutionality of State Statutes</div>

V. ORIGIN (Place an "X" in One Box Only)

☒ 1

Original Proceeding

2

Removed from State Court

3

Remanded from Appellate Court

4

Reinstated or Reopened

5

Transferred from Another District (specify)

6

Multidistrict Litigation–Transfer

8

Multidistrict Litigation–Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. § 1332(a)(2)

Brief description of cause:

This is a collection action for damages caused by Defendant's breaches of automotive supply contracts.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P.

DEMAND \$ 2,018,937.00

CHECK YES only if demanded in complaint: JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE

DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only)

SAN FRANCISCO/OAKLAND

☒ SAN JOSE

EUREKA-MCKINLEYVILLE

DATE03/20/2020

SIGNATURE OF ATTORNEY OF RECORD/s/ Jonathan D. Baker

EXHIBIT "G"

Loan Number	Date Approved	SBA Office Code	Processing Method	Borrower Name	Borrower Address	Borrower City	Borrower State	Borrower Zip	Loan StatusDate	LoanStatus	Term	SBA Guaranty Percentage
1746277202	4/15/2020	912	PPP	BYTON NORTH AMERICA CORPORATION	4201 BURTON DR	SANTA CLARA	CA	95054-1512		Exemption 4	24	100
Initial Approval Amount	Current Approval Amount	Undisbursed Amount	Franchise Name	Servicing Lender Location ID	Servicing Lender Name	Servicing Lender Address	Servicing Lender City	Servicing Lender State	Servicing Lender Zip	Rural Urban Indicator	Hubzone Indicator	LMI Indicator
10000000	10000000	0		378617	HSBC Bank USA, National Association	1800 Tysons Blvd, Ste 50 Tysons II	MCLEAN	VA	22102-4267	U	N	N
BusinessAge Description	Project City	Project County Name	Project State	Project Zip	CD	Jobs Reported	NAICS Code	Race	Ethnicity	UTILITIES_PROCEED	PAYROLL_PROCEED	MORTGAGE_INTEREST_PROCEED
Existing or more than 2 years old	SANTA CLARA	SANTA CLARA	CA	95054-1512	CA-17	397	336111	Unanswered	Unknown/NotStated		10000000	

RENT_PROCEED	REFINANCE_IDL_PROCEED	HEALTH_CAR_E_PROCEED	DEBT_INTEREST_PROCEED	BusinessType	OriginatingLenderLocationID	OriginatingLender	OriginatingLenderCity	OriginatingLenderState	Gender	Veteran	NonProfit	ForgivenessAmount
				Corporation	378617	HSBC Bank USA, National Association	MCLEAN	VA	Unanswered	Unanswered		10,113,055.56
Forgiveness Date												
6/11/2021												
** ALL DATA IS PULLED FROM THE SBC AND CONDENSED INTO THIS EXCEL SHEET												

EXHIBIT "H"

Bing Zhang Ryan (Bar No.: 228641)
ZHANG LAW GROUP
16 Southwood Drive
Orinda, CA 94563
Telephone: (925) 257-3097
Email: bzhanglaw@gmail.com

Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

POWERLAND TECHNOLOGY INC., a) Civil Case No.: _____
Chinese corporation,)
)
Plaintiff,) **COMPLAINT**
)
v.)

BYTON NORTH AMERICA
CORPORATION, a Delaware corporation, and
DOES 1 through 10, inclusive,
Defendant.

I. INTRODUCTION

1
2 1. This action arises from Byton North America Corporation’s (“Byton” or
3 “Defendant”) failure to pay for the products and services provided by Powerland Technology
4 Inc. (“Powerland” or “Plaintiff”) from late 2018 to October 2019.

5 2. Although Defendant admitted on numerous occasions that they received the
6 products and services provided by Plaintiff, it refused to pay for the amount of \$616,412.00
7 despite Plaintiff’s repeated efforts in collecting this amount from Defendant.

II. JURISDICTION AND VENUE

8
9 3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1332(d). The
10 requirement of minimal diversity is met as the amount in controversy exceeds the amount of
11 \$75,000, exclusive of interest and costs, and the dispute is between citizens of a state and a
12 citizen of a foreign state. *See* 28 U.S.C. § 1332(d)(2).

13 4. This Court has personal jurisdiction over Defendant in that Defendant, a Delaware
14 corporation, is registered to conduct business as a foreign corporation in the state of California
15 and has its principal place of business in Santa Clara, California. Defendant also engaged in the
16 misconduct alleged herein in Santa Clara, California.

17 5. Venue for this action is proper in this District pursuant to 28 U.S.C. §1391(b) in
18 that Defendant’s principal place of business is located in this judicial district and Defendant
19 regularly conducts business in this district. The causes of action also arose, at least in part, in
20 this district.

III. THE PARTIES

21
22 6. Plaintiff is a corporation registered in the People’s Republic of China (“China”) in
23 2009. It maintains its principal office in Nanjing, China. It designs and manufactures high-end
24 power electronic products featuring high efficiency, high reliability, super long life, and high
25 power density. It provides green power products and related services to customers around the
26 world. The Chinese name of Plaintiff is “南京博兰得电子科技有限公司”.

27
28

7. Defendant is a corporation registered in the State of Delaware on November 21, 2016 and registered in the State of California as a foreign corporation on November 28, 2016. Its headquarters are located in Santa Clara, California.

IV. SUBSTANTIVE ALLEGATIONS

A. Defendant Received the Products and Services Provided by Plaintiff from Late 2018 to October 2019

8. Defendant is an electric car startup. It designs and manufactures electric cars with advanced technologies.

9. On December 13, 2018, Defendant issued a purchase order (#13841) to Plaintiff relating to products and services described as “11kw OBC Development” for the amount of \$519,340 (“PO 13841”). A true and correct copy of the purchase order # 13841 is attached hereto as **Exhibit 1**.

10. On February 8, 2019, Defendant issued a purchase order (#14270) to Plaintiff, relating to products and services described as “DCDC ED&T” for the amount of \$800,300. A true and correct copy of the purchase order # 14270 is attached hereto as **Exhibit 2**.

11. In April 2019, Defendant requested that Plaintiff make modifications relating to the ED&T project. On April 23, 2019, Plaintiff replied that the estimated cost of the modifications as requested by Plaintiff would be \$160,000.00. On the same date, Thomas Riedell, an engineer of Defendant, replied to Plaintiff via an email, confirming the cost estimate and demanding Plaintiff to work on the modifications as soon as possible. A true and correct copy of the relevant emails are attached hereto as **Exhibit 3**.

12. Plaintiff worked on the modifications of the ED&T project and incurred \$160,000 under the instruction of Defendant.

B. Defendant Failed to Make a Payment for the Amount of \$616,412.00 Upon Repeated Demands from Plaintiff

13. By December 2019, Defendant still owed Plaintiff \$616,412.00 for the products and services already provided by Plaintiff.

14. Plaintiff made numerous requests for the payment of \$616,412.00 from December 2019 to June 2020. Although Defendant admitted that it received the relevant products and services, it refused to make any payment.

15. On July 16, 2020, Plaintiff sent a demand letter to Defendant, again requesting for an immediate payment of \$616,412.00. A true and correct copy of the demand letter is attached hereto as **Exhibit 4**. In the demand letter, Plaintiff informed Defendant that if Defendant failed to make the payment by July 23, 2020, Plaintiff would file a civil lawsuit in an appropriate venue against Defendant.

16. As of the date of this filing, Defendant has not replied to Plaintiff's July 16, 2020 demand letter and has not made any payment to Plaintiff.

V. FIRST CLAIM FOR RELIEF

Breach of Contract

17. Plaintiff repeats all previous allegations as if set forth in full herein.

18. The parties entered into valid contracts (*i.e.* purchase order # 13841 and purchase order # 14279) concerning the products and services ordered by Defendant. Plaintiff delivered the products and services pursuant to the purchase orders. Defendant does not dispute the amount owed to Plaintiff or whether it has received the products and services from Plaintiff.

19. Defendant materially breached the contract by failing to make the payment of \$616,412.00 regarding the products and services provided by Plaintiff.

20. Defendant's breach caused a loss to Plaintiff.

VI. SECOND CLAIM FOR RELIEF

Breach of the Implied Covenant of Good Faith and Fair Dealing

21. Plaintiff repeats all previous allegations as if set forth in full herein.

22. It is implied in every contract that the parties to a contract will deal with each other honestly, fairly, and in good faith, so as not to destroy the right of the other party to receive the benefits of the contract and to reinforce the express covenants or promises of the contract. Good faith means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.

23. By entering into the two contracts with Plaintiff, Defendant is subject to the implied covenant of good faith and fair dealing. Thus, in carrying out its obligations under the contract with Plaintiff, Defendant must act in good faith and deal fairly with Plaintiff.

24. Defendant breached its obligations to Plaintiff under the contracts by failing to make any payment upon numerous requests by Plaintiff.

25. Defendant has refused to pay for the products and services without reasonable justification. As a result of Defendant's breach, Plaintiff has suffered damages.

VII. THIRD CLAIM FOR RELIEF

Unjust Enrichment

(Against All Defendants)

26. Plaintiff repeats all previous allegations as if set forth in full herein.

27. Defendant has received a benefit of the products and services provided by Plaintiff. Defendants' retention of the products and services without payment would be unjust to Plaintiff.

28. Plaintiff expected remuneration from Defendant at the time Plaintiff delivered the products and services to Defendant.

29. However, Defendant has refused to pay for the products and services without reasonable justification. As a result of Defendant's breach, Plaintiff has suffered damages.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

A. Directing Defendant to pay Plaintiff for the amount of \$616,412.00 for the products and services provided by Plaintiff, plus any interest as accrued;

B. Awarding Plaintiff the costs of this action, including a reasonable allowance for the fees and expenses of Plaintiff's attorneys and experts; and

C. Granting such other or further relief as the Court may deem just and proper.

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DATED: July 31, 2020

ZHANG LAW GROUP

/s/ Bing Zhang Ryan

Bing Zhang Ryan (Bar No.: 228641)

16 Southwood Drive

Orinda, CA 94563

Telephone: (925) 257-3097

Email: bzhangelaw@gmail.com

Attorney for Plaintiff

EXHIBIT "I"

E-FILED
10/14/2020 6:08 PM
Clerk of Court
Superior Court of CA,
County of Santa Clara
20CV372211
Reviewed By: D Harris

1 RON CHOW, Esq. (Bar No. 241946)
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5 ORANGE, CA 92867
6 Telephone: (714) 972-8989
7 Facsimile: (714) 972-3928
8 E-Mail: ron@grclawfirm.com

9 Attorneys for Plaintiff

10
11 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
12 DOWNTOWN SUPERIOR COURTHOUSE - CIVIL DIVISION
13

14 BLUE ARC ELECTRIC, INC.,)	CASE NO.: 20CV372211
15)	
16 Plaintiff,)	COMPLAINT FOR MONEY
17 vs)	LIMITED CIVIL
18 BYTON NORTH AMERICA)	
19 CORPORATION, a Delaware corporation,)	
20)	
21 DOES 1 TO 10,)	
22)	
23 Defendants.)	
24)	

25 Amount of Demand: \$13,115.75

26 COMES NOW the plaintiff, and for cause of action against the defendant(s), and each of
27 them, alleges as follows:

28 FIRST CAUSE OF ACTION
OPEN BOOK ACCOUNT
AS TO ALL DEFENDANTS

1. That plaintiff is unaware of the true names or capacities, whether individual, associate,
corporate or otherwise, of defendants DOES 1 TO 10, and therefore sues them by such fictitious
names, and leave of court will be asked to insert their true names and capacities when same have
been ascertained.

2. That this judicial district is the proper venue for this action because the defendant(s)

1 maintains his/her/its business in the within judicial district, and/or the debt was incurred and/or is
2 payable in the within judicial district. That defendant does business at 4201 Burton Dr., Santa
3 Clara, CA 95054. That the within action is not subject to the provisions of Civil Code Sections
4 1812.10 or 2984.4.

5 3. That plaintiff is a corporation, authorized to do business in the State of California.

6 4. That within four years last past and on or about February 14, 2020, the defendant(s), and
7 each of them, became indebted to plaintiff on an open book account, for a balance due for goods,
8 wares and merchandise sold and/or services rendered in the sum of \$13,115.75.

9 5. That although demand for payment of said sum has been made, defendant(s), and each
10 of them, have failed and refused to pay said sum, and the whole thereof is now due, owing and
11 unpaid, together with interest thereon at the rate of 10% per annum, from and after February 14,
12 2020.

13 SECOND CAUSE OF ACTION
14 ACCOUNT STATED
AS TO ALL DEFENDANTS

15 6. Plaintiff refers to all of the allegations contained in paragraphs 1, 2, 3, and 5 of the First
16 Cause of Action, and by this reference incorporates them herein as though fully set forth.

17 7. That on February 14, 2020, there was an account stated between plaintiff and
18 defendant(s), and each of them, upon which account stated the sum of \$13,115.75, and was agreed
19 upon as the balance due plaintiff.

20 THIRD CAUSE OF ACTION
21 REASONABLE VALUE OF SERVICES RECEIVED
AS TO ALL DEFENDANTS

22 8. Plaintiff refers to all of the allegations contained in paragraphs 1, 2, 3, and 5 of the First
23 Cause of Action, and by this reference incorporates them herein as though fully set forth.

24 9. That within four years last past and on or about February 14, 2020, defendant(s), and
25 each of them, became indebted to plaintiff in the sum of \$13,115.75 for goods, wares and
26 merchandise sold and/or services rendered to defendant(s), and each of them, at their special
27 instance and request, and the reasonable value of same in the sum of \$13,115.75.

28 ///

FOURTH CAUSE OF ACTION
UNJUST ENRICHMENT
AS TO ALL DEFENDANTS

10. Plaintiff incorporates by reference paragraphs 1 through 9, inclusive, of this Complaint as though fully set forth.

11. Defendant(s) have/had benefited from moneys, goods, wares and merchandise sold and/or services rendered provided by the Plaintiff and not repaid. Given Defendant(s) failure to make payments for the outstanding balance owed with respect to the accounts, and the fact that Defendant(s) was/were the beneficiary of funds provided on the accounts, Defendant(s) would be unjustly enriched unless the judgment is entered for the full balance due owing on the accounts.

12. By reason of the foregoing, Plaintiff is entitled to judgment against Defendant(s) for unjust enrichment in an amount to be determined at trial, plus court costs.

13. That within four years last past and on or about February 14, 2020, defendant(s), and each of them, became indebted to plaintiff in the sum of \$13,115.75 for goods, wares and merchandise sold and/or services rendered to defendant(s), and each of them, at their special instance and request, and the reasonable value of same in the sum of \$13,115.75.

WHEREFORE, plaintiff prays for judgment against defendant(s), and each of them, as follows:

1. For the principal sum of \$13,115.75, together with interest thereon at the rate of 10% per annum from February 14, 2020;
2. For costs of suit incurred herein;
3. For reasonable attorney's fees pursuant to C.C.P. Section 1717.5, in a sum according to proof; and
4. For such other and further relief as the court may deem just and equitable.

DATED: October 13, 2020



RON CHOW, Esq.
A Member of Gardener, Riechmann & Chow
Attorneys for Plaintiff

EXHIBIT "J"

E-FILED
10/22/2020 2:43 PM
Clerk of Court
Superior Court of CA,
County of Santa Clara
20CV372607
Reviewed By: D Harris

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6 Attorneys for Plaintiff
AIR INTERNATIONAL (US) INC.

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SANTA CLARA

10
11 AIR INTERNATIONAL (US) INC., a
Delaware corporation,

12
13 Plaintiff,

14 v.

15 BYTON NORTH AMERICA
16 CORPORATION, a Delaware corporation,
AND DOES 1-10, inclusively,

17
18 Defendants.

Case No. 20CV372607

COMPLAINT FOR:

(1) ACCOUNT STATED

(2) BREACH OF CONTRACT

JURY TRIAL DEMANDED

1 Plaintiff Air International (US) Inc., for its Complaint, alleges on knowledge with
2 respect to its own acts and on information and belief with respect to all other matters as
3 follows:

4 1. Plaintiff Air International (US) Inc. (“AIUS”) manufactures automotive
5 HVAC systems that it sells to automobile manufacturers.

6 2. Defendant Byton North America Corporation (“Byton”) manufactures
7 automobiles.

8 3. AIUS brings this suit because Byton has failed to pay for the development and
9 manufacture of certain HVAC systems that Byton contracted for.

10 **JURISDICTION, VENUE AND PARTIES**

11 4. This is a civil action arising under the statutory and common law of the State
12 of California.

13 5. AIUS is a Delaware corporation with its principal place of business in Auburn
14 Hills, Oakland County, Michigan.

15 6. Byton is a Delaware corporation with its principal place of business in Santa
16 Clara, Santa Clara County, California.

17 7. Jurisdiction and venue are proper in this Court because, at all times relevant,
18 Byton has conducted business in the County of Santa Clara, California, the relevant contracts
19 between the parties were substantially negotiated, performed and/or breached in the County
20 of Santa Clara, California, and the amount in controversy exceeds \$25,000.

21 8. AIUS is ignorant of the true names and capacities of the defendants sued in
22 this Complaint as DOES 1 through 10, inclusive, and therefore sues these defendants by such
23 fictitious names in accordance with California Code of Civil Procedure § 474. AIUS will
24 amend this Complaint to allege the true names and capacities of the Doe defendants when
25 ascertained. Each of the fictitiously named defendants is responsible in some manner for the
26 conduct alleged in this Complaint, and AIUS’s damages are actually and proximately caused
27 by the conduct of such defendants.

28 9. AIUS is informed and believes and thereon alleges that each of the defendants

is and at all relevant times was the agent of the other defendants. In the course of doing the things alleged in this Complaint, each defendant was acting in the course and scope of that authority and/or agency.

Byton Contracts for HVAC Systems from AIUS

10. AIUS and Byton agreed that AIUS would develop and manufacture an HVAC system for use in Byton vehicles. The agreement was documented in a series of purchase orders issued by Byton to AIUS and by invoices issued by AIUS to Byton, as well as other communications between the parties. Each purchase order incorporated the applicable terms and conditions ("Byton Terms"). The purchase orders and invoices are attached to this Complaint as Exhibits 1 through 16 and are summarized as follows:

Activity	Original Invoice Date	Total Invoice (\$)	Byton PO #	PO Ex. #	AI Invoice #	Inv. Ex. #
Bracket Tooling Pre-AP	7/20/2018	29,010	16508	1	18000091	Included in Ex. 1
TCU/SW Development	11/14/2018	1,329,706	16524	2	19000074	3
AP Component Delivery	12/12/2018	920,774	15274	5	19000071	4
AP Component Delivery	12/12/2018	9,931	12399	7	19000070	6
AP Rain Covers	12/12/2018	23,100	16509	8	19000069	Included in Ex. 7
System Integration	12/31/2018	1,147,500	14515	10	18000196	9
AP Brackets	12/31/2018	258,443	16553	12	19000077	11
AP Brackets	12/31/2018	6,229	12693	14	19000072	13
TCU Scope Changes	2/1/2020	557,811	17387	15	20000025	Included in Ex. 14
AI Onsite Engineer	None	220,000	None		None	16

11. Each purchase order was accepted by AIUS and thereby gave rise to a contract between the parties as set forth in the purchase orders and the incorporated Byton Terms.

12. In addition to the agreements set forth in the purchase orders, Byton entered

1 into one additional agreement. Specifically, it requested that AIUS provide an additional
2 “Onsite Engineer” and to pay \$220,000 for those services.

3 13. AIUS performed all conditions to Byton’s payment. To the extent that any
4 condition was not performed, performance was excused and/or prevented by Byton’s
5 breaches.

6 14. Until December 2019 Byton made a single \$700,500 payment to AIUS, but
7 otherwise failed to perform its obligations to AIUS including, *inter alia*, failing to pay the
8 remaining amounts owed to AIUS.

9 15. A series of communications between AIUS and Byton regarding the
10 indebtedness culminated in a December 6, 2019 email from Byton, attached as Exhibit 17 to
11 this Complaint, in which Byton acknowledged its indebtedness and agreed to pay
12 \$3,556,063, as follows: (a) immediately pay \$451,000; (b) pay \$1,549,000 by December 31,
13 2019; and (c) pay an additional \$1,556,063 in 2020 in installments, to be completed by June
14 2020.

15 16. Byton made the 2019 payments, but has failed to make any of the 2020
16 payments.

17 **FIRST CAUSE OF ACTION**

18 **(Account Stated)**

19 17. AIUS repeats and realleges each of the allegations contained in the previous
20 paragraphs 1 through 16 by this reference as though fully set forth herein.

21 18. Byton’s December 6, 2019 email referenced in paragraph 16 of this Complaint
22 shows an account stated in the amount of \$3,556,063.

23 19. \$1,556,063 remains unpaid on that account.

24 20. Payment is overdue and owing.

25 **SECOND CAUSE OF ACTION**

26 **(Breach of Contract)**

27 21. AIUS repeats and realleges each of the allegations contained in the previous
28 paragraphs 1 through 20 by this reference as though fully set forth herein.

1 22. AIUS performed all terms and conditions precedent to Byton's payment. To
2 the extent that any condition was not performed, performance was excused and prevented by
3 Byton's breaches.

4 23. Byton has breached its contracts with AIUS by failing to pay all amounts due
5 under the parties' written agreements.

6 24. AIUS has been damaged in the amount of Byton's payment failures.

7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, Plaintiff AIUS demands that judgment be entered against
9 Defendants Byton and Does 1-10 as follows:


- 10 1. For the sum of \$1,556,063, the unpaid balance;
11 2. Pre-judgment and post-judgment interest to the full extent allowed by law;
12 3. Reasonable attorneys' fees and costs of suit to the full extent allowed by law;

13 and

- 14 4. Such other and further equitable, legal, or other relief as this Court deems just
15 and appropriate.

16
17 Dated: October 22, 2020.

VALLE MAKOFF LLP

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19 By: 
20 Patrick T. Freeman
21 Attorneys for Plaintiff
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all matters and issues so triable, including all triable matters or issues raised in this Complaint.

Dated: October 22, 2020.

VALLE MAKOFF LLP


By: 
Patrick T. Freeman
Attorneys for Plaintiff

EXHIBIT "K"

Item#	Application #	Patent #	Invention Title	Patent Application	Assignment Date	Assinor/ Assignee
1	16031264	10332495	In Vehicle Karaoke	Application Date: July 10, 2018	exec: 05/16/2019 rec: 05/17/2019	Assignor: BNA Assignee: BYTON LIMITED
2	29700749	D917538	Display Screen or Portion Thereof With a Graphical User Interface	Application Date: August 5, 2019	exec: 06/13/2019 Rec: 03/30/2021	Assignor: BNA Assignee: BYTON LIMITED
3	29616345	D864227	Display Screen with an Animated Graphical User Interface	Application Date: September 5, 2017	exec: 09/19/2019 rec: 09/20/2019	Assignor: BNA Assignee: BYTON LIMITED
4	15669693	10518732	Airbag Devices Designed to Utilize a Reduced Interior Surface Area of a Vehicle	Application Date: August 4, 2017	exec: 11/19/2019 rec: 11/25/2019	Assignor: BNA Assignee: BYTON LIMITED
5	16172551	10559794	Battery Sealing Enclosure	Application Date: October 26, 2018	exec: 01/02/2020 rec: 01/02/2020	Assignor: BNA Assignee: BYTON LIMITED
6	29616340	D907653	Display Screen or Portion Thereof With a Graphical User Interface	Application Date: September 5, 2017	exec: 01/09/2020 rec: 01/29/2020	Assignor: BNA Assignee: BYTON LIMITED
7	15863834		HVAC Unit Placement Configuration for a Vehicle	Application Date: Jan 5, 2018	exec: 02/01/2020 rec: 02/03/2020	Assignor: BNA Assignee: BYTON LIMITED
8	29616344	D879121	Display Screen with a Graphical User Interface	Application Date: September 5, 2017	exec: 02/18/2020 rec: 02/20/2020	Assignor: BNA Assignee: BYTON LIMITED
9	15863707	10887349	System and Method for Enforcing Security with a Vehicle Gateway	Application Date: Jan 5, 2018	exec: 03/17/2020 rec: 11/25/2020	Assignor: BNA Assignee: BYTON LIMITED

10	16136052	10745018	Hybrid User Recognition Systems for Vehicle Access and Control	Application Date: September 19, 2018	exec: 03/18/2020 rec: 03/18/2020	Assignor: BNA Assignee: BYTON LIMITED
11	15863831	10676067	User Capture Device Configuration for a Vehicle	Application Date: Jan 5, 2018	exec: 05/04/2020 rec: 05/04/2020	Assignor: BNA Assignee: BYTON LIMITED
12	29675745	D892693	Door Panel	Application Date: Jan 4, 2019	exec: 07/06/2020 rec: 07/06/2020	Assignor: BNA Assignee: BYTON LIMITED
13	15696018	10746560	Interactive Mapping	Application Date: September 5, 2017	exec: 07/13/2020 rec: 07/13/2020	Assignor: BNA Assignee: BYTON LIMITED
14	15863686	10759362	Harness for Assisted Driving	Application Date: Jan 5, 2018	exec: 07/28/2020 rec: 07/28/2020	Assignor: BNA Assignee: BYTON LIMITED
15	16240706	10860208	Multi-Window Display Controller	Application Date: January 4, 2019	exec: 11/02/2020 rec: 11/02/2020	Assignor: BNA Assignee: BYTON LIMITED
16	29679905	D904232	Vehicle	Application Date: February 11, 2019	exec: 11/03/2020 rec: 11/03/2020	Assignor: BNA Assignee: BYTON LIMITED
17	29616346	D907054	Display Screen or Portion Thereof With a Graphical User Interface	Application Date: September 5, 2017	exec: 11/25/2020 rec: 11/25/2020	Assignor: BNA Assignee: BYTON LIMITED
18	16240701	10891921	Separate Operating Systems for Dashboard Display	Application Date: January 4, 2019	exec: 12/09/2020 rec: 12/10/2020	Assignor: BNA Assignee: BYTON LIMITED

19	16042847	10911949	Systems and Methods for a Vehicle Authenticating and Enrolling a Wireless Device	Application Date: July 23, 2018	exec: 12/28/2020 rec: 12/28/2020	Assignor: BNA Assignee: BYTON LIMITED
20	15957837		Door Opening Clearance Detection	Application Date: April 19, 2018	exec: 01/07/2021 rec: 01/07/2021	Assignor: BNA Assignee: BYTON LIMITED
21	29675750	D922932	Middle Console	Application Date: January 4, 2019	exec: 05/19/2021 rec: 05/19/2021	Assignor: BNA Assignee: BYTON LIMITED
22	15975737	11117484	Safe and Secure Charging of a Vehicle	Application Date: May 9, 2018	exec: 08/11/2021 rec: 08/11/2021	Assignor: BNA Assignee: BYTON LIMITED

EXHIBIT "L"

Application #	Patent #	Invention Title	Application Date
16240703	11042341	Integrated Functionality Of Center Display, Driver Display, and Shared-Experience Display	Jan 4 , 2019
16272849	11107354	Systems and Methods to Recognize Parking	Feb 11, 2019
16272756	11110821	Sliding Center Module System For Vehicle	Feb 11 , 2019

EXHIBIT "M"

1 MAYER BROWN LLP
JOHN NADOLENCO (SBN 181128)
2 *jnadolenco@mayerbrown.com*
RUTH ZADIKANY (SBN 260288)
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6 Facsimile: (213) 625-0248

7 Attorneys for Plaintiffs
Byton North America Corporation and
8 Byton Limited

9
10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION
13

14 BYTON NORTH AMERICA
CORPORATION, a Delaware
15 corporation; and BYTON LIMITED, a
Hong Kong company,

16 Plaintiffs,

17 v.

18 ICONIQ MOTORS NORTH
AMERICA, INC., a California
19 corporation; CARSTEN BREITFELD,
20 an individual; and DOES 1 THROUGH
25 INCLUSIVE,

21 Defendants.
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Case No.: 2-19-cv-10563-DMG-JEM

**PLAINTIFF BYTON NORTH
AMERICA CORPORATION'S
CORPORATE DISCLOSURE
STATEMENT PURSUANT TO FED.
R. CIV. PROC. R. 7.1**

1 Plaintiff Byton North America Corporation submits, pursuant to Rule 7.1 of
2 the Federal Rules of Civil Procedure, the following corporate disclosure statement:

3 The parent corporation of Byton North America Corporation is Byton
4 Limited, a privately-held Hong Kong company. No publicly-held corporation owns
5 10% or more of Byton North America Corporation's stock.

6
7
8 Dated: December 19, 2019

MAYER BROWN LLP

9
10 By: /s/ John Nadolenco
John Nadolenco

11 Attorneys for Plaintiffs
12 Byton North America Corporation and
13 Byton Limited
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EXHIBIT "N"

David J. Cook

From: David J. Cook [davidcook@cookcollectionattorneys.com]
Sent: Friday, December 10, 2021 11:36 AM
To: 'ksipprelle@vstriallaw.com'; 'lester.vincent@wbd-US.com'; 'enrique.garcia@wbd-US.com'
Cc: 'Evangeline A.Z. Burbidge'; 'Kenneth M. Walczak'
Subject: NOTICE OF EX PARTE FOR SHORTENING TIME FOR HEARING ON MOTION FOR APPOINTMENT OF RECEIVER, AND ISSUANCE OF INJUNCTION PURSUANT TO CIVIL CODE SECTION 3439.07(a)(3)(A)

Mr. Sipprelle:

Please take notice as follows:

A. Ex parte motion to set a hearing on motion for appointment of a receiver to take possession and sale of the 20 Patents ("BNA Patents #1") that were transferred by Byton North America ("BNA") to BYTON Limited ("BY LTD"), and vacate, extinguish and set aside the conveyance to BY LTD under Civil Code Section 3439.07(c), 3439.07(a)(3)(B), FRCP 66, C.C.P. Section 708.620, C.C.P. Section 564 etc., and related basis thereof, and the other 3 patents (BNA Patents #2)

B. Ex parte motion to issue an injunction from the sale, assignment, transfer, encumbrance, lien, change of name or title, or disposition pursuant to Civil Code Section 3439.07(a)(3)(A) of BNA Patents #1 and BNA Patents #2.

C. Ex parte motion to compel BNA and its officer, directors, shareholders and agent to turn over all financial records including all banking records, the records for the use and disposition of the \$10,000,000 PPP loan, all records that document the transfer of the BNA Patents #1, all payroll records for all employees of BNA, such as, and including the 550 employee, of which approximately 400 engineers discussed in the Deposition(s), or the arbitration transcript, all PG&E, water, trash, and cable records and bills for 4201 Burton Drive, Santa Clara, CA 95054, and all records for proof of payment of lease payment due to the landlord for the premises.

As of this moment, the court has not handed down the judgment which is subject to immediate enforcement. We are presuming that the BNA is NOT going to post a bond. Please advise to the contrary.

We anticipate the filing of our moving papers on Monday, December 13, 2021.

We request that you provide us with the current address, telephone number and email for Mr. Gong L. Chen, Esq. who executed the 20 assignments for the transfers of the BNA Patents #1.

We are aware of the \$10,000,000 from the PPP loan through the SBA/HSBC and that the BNA received a forgiveness on the PPP Loan. Are you going to advise BNA to turn over the \$10,000,000 to EDAG? Are you going to identify the person or entity who has possession of the \$10,000,000?

Please inform us upon receipt of this email. If we do not hear from you upon receipt of this email and turn over the \$10,000,000, we likewise will seek the issuance of a turnover order pursuant to C.C.P. Section 699.040(a)&(b).

If the \$10,000,000 has been sent offshore to Byton Limited or related entities, or any officer, director, shareholder or third party, we will seek relief under Civil Code Section 3439.04(a), Section 3439.05, and California common law as part of the pending relief. The fact of the offshore transfer of the \$10,000,000 is very strong evidence of a going pattern of fraudulent conduct for the purpose defrauding EDAG. I remind you the fraudulent conveyance is a common law fraud.

David J. Cook, Esq. Cook Collection Attorneys PLC., 165 Fell Street, San Francisco, CA 94102 (415) 989 4730

I, Michael Berg, hereby declare and state as follows:

1. I am a California licensed certified public accountant since 1982 and a member of the American Institute of Certified Public Accountants (AICPA). I am Certified in Financial Forensics (CFF) by the AICPA and am an advisor and consultant to clients, attorneys and third parties in the area of financial, tax and estate planning, and business litigation.
2. I was a manager in the audit practice of PWC (formerly Coopers and Lybrand), co-founder and owner of PMB Helin Donovan, a medium sized CPA firm with offices in California and Texas where I was Partner in Charge of the firm's audit practice. I sold my interest in the firm and retired from public accounting. I served as the Chair of the Audit Committee for Marathon Digital Holdings, a NASDAQ traded financial services firm, during 2021 and continue to consult with small public companies. My resume is attached hereto, marked "**Exhibit A**" and incorporated by reference.
3. I have been deposed on multiple occasions as an expert witness in Bankruptcy Court and in State Court. Particularly, I have been determined by courts as an expert in the business issues related to fraud. A list of litigation matters to which I have attended is attached hereto, marked "**Exhibit B**" and incorporated by reference.
4. I have been engaged by Mr. David Cook, Esq. in the Matter of EDAG Engineering GMBH vs. Byton North America, a Delaware Corp. to review the transfer of certain patents between Byton North America and Byton Limited (the Hong Kong parent company of Byton North America) and to determine if such transfers were made for a legitimate business purpose.
5. As part of my review I have been provided the following documents by Mr.

Cook's office:

- A. Petitioners EDAG's Notice of Entry of Judgment by Arbitrator, Jun 23, 2021 and the Final Arbitration Award confirming the \$29,972,239 owed to EDAG.
 - B. Order granting Claimant EDAG's Motion for Preliminary Injunction, November 8, 2021.
 - C. Declaration of Volker Amelung regarding Patent Valuation, December 9, 2021
 - D. Complaint filed in "*BYTON NA and BYTON LIMITED v. ICONIQ MOTORS NORTH AMERICA, INC.*", December 13, 2019.
 - E. Declaration of Matt Barter of behalf of BYTON NA and BYTON LIMITED, September 18, 2020.
 - F. Declaration of Gong Lin Chen, December 9, 2021.
 - G. BytonPatent Assignment Sheet, provided by Cook.
 - H. Byton PPP Government Loan datasheet obtained from the SBA, provided by Cook.
 - I. Byton Activity Timeline, provided by Cook.
 - J. Deposition of Sadha Kamesran, November 17, 2020
6. After a review of these documents, I can only conclude that the transfers of the patents from Byton NA to Byton Limited, which occurred between May 16, 2019 and August 11, 2021, had no business purpose other than to shield these assets from the creditors of Byton NA and the United States Government. The patent assignments were a series of fraudulent transfers intended to delay and defraud the Company's creditors. I reach this conclusion after noting the following facts and evident badges of fraudulent transfer:
- a. **The patents were very valuable and in fact may have been one of few**

assets remaining on the books of Byton NA. The declaration of Volker Amelung suggests that the patents had a value of almost \$84 million dollars and the Arbitrator's Final Award to EDAG was \$29,972,239, for unpaid services. The Arbitrator Hon. William Cahill cites evidence that Byton Limited continued to pursue the intellectual property created by EDAG through JAMA, a cloud based provider, and had sufficient money to regain access to the patent database (\$500,000 is estimated as owed to all cloud based providers used by Byton NA). Judge Cahill notes that the payments were made to JAMA even though Byton did not have the money to pay EDAG, the vendor that helped develop the intellectual property.


- b. **Byton NA was insolvent at the time of the transfers.** Byton NA has judgments outstanding by vendors and employees. Byton NA stopped paying vendors and suppliers by middle of 2019; failed to pay their law firm sometime in 2020, stopped paying another vendor specifically in March 2020. During the same period Byton NA apparently fled California and the Company President Daniel I Kirchert was located in Hong Kong. CT Corporation resigned as the agent for service of process, presumably for lack of payment. Byton also let go of all California based employees before or during the transfer of Patents from May, 2019 to August, 2021.
- c. **Byton Limited, a separate corporation, is the corporate parent for Byton NA.** As noted by Byton NA and Byton Limited in its complaint against ICONIQ Motors: Byton Limited is a Hong Kong company that develops electric vehicles and Byton NA, Byton Limited's wholly owned subsidiary, provides research and

development and software design services. The use of separate wholly owned corporations to hide nefarious activities is a common badge of fraud.

- d. **The patent transfers were made without consideration.** Gong Lin Chen, the Director of IP for Byton group of companies alleges that the transfers were made by a “long standing inter-company agreement” between Byton NA and Byton LIMITED and that Byton LIMITED would be the ultimate owner of these patents. Such an agreement is in violation of generally accepted accounting rules that require that any transfer between separate corporations be supported by the concurrent payment of fair market value.
 - e. **There is no legitimate business purpose for the patent transfers.** The Byton companies have not provided any related financial information, valuations, corporate minutes, or board resolutions that would be a necessary part of any normal corporate asset transfer. There are no compelling business strategies, tax planning opportunities, or other reasons for the patent transfer. The timing of the transfers coincide with the financial collapse of Byton NA.
7. **The patent transfers suggest tax evasion and fraud perpetuated against the United States Government.** ProPublica documents reveal that Byton NA received debt forgiveness in the amount of \$10,113,056 for a loan received under the PPP program designed to help businesses during the COVID epidemic. This loan was received at the same time that Byton NA was transferring over \$80 million in assets to China, effectively making its US subsidiary insolvent, suggesting that the debt forgiveness was fraudulently obtained. Also, a transfer of assets can result in US based income to the recipient when equivalent consideration is not paid. Byton Group may owe millions in unpaid taxes to the

US government.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 14th day of December, 2021 at Napa, California.

A handwritten signature in dark ink, appearing to read 'Michael Berg', with a long horizontal flourish extending to the right.

Michael Berg, CPA

EXHIBIT "O"



Michael C. Berg, CPA

Mr. Michael Berg has been a practicing accountant for over 30 years. He was an audit manager for Coopers & Lybrand (now PWC) in San Francisco and is the co-founder and served as the West Coast PIC of PMB Helin Donovan, a 100+ person CPA firm. Michael was the CFO of a public real estate company and a high tech manufacturer and a research and development company. Michael has worked extensively with public companies and has participated in many public offerings in national markets. Michael helped a local pharmaceutical company as it raised \$30 million from various investor groups, took a Vietnamese Company public on the NASDAQ exchange, and worked with several companies merging with public shells.

Mr. Berg provides a variety of forensic and litigation support services including expert witness testimony and consulting support in Federal, State, and Bankruptcy Court. He is certified in Financial Forensics by the AICPA and was a Diplomat of American College of Forensic Examiners and completed the AICPA Business Valuation School. Michael's litigation support specialties include lost profits analysis, forensic and financial investigation, fraud, valuation and other business damage claims.

Michael, who is an excellent public presenter, taught several popular accounting courses at San Francisco State University and served as a panelist for the UC Berkeley-Hass Business School Entrepreneurship Program.

Michael was the President of the Board of Directors of The Names Project and formed a not-for-profit called the Permanent Display aimed at creating a San Francisco landmark for the AIDs Quilt. Michael also helped found Welcome, a 501 C (3) that provided homeless outreach in the Upper Polk Street area of San Francisco. Michael currently serves on the Board of Directors of the Lincoln Theater and is a board member and chair of the audit committee of Marathon Patent Group which is traded on the NASDAQ.

Education & Professional Associations

B.A. Accounting with Honors, San Francisco State University
Certified Public Accountant, California
Member, American Institute of Certified Public Accountants, Forensic and Valuation Services, Certified in Financial Forensics (CFF)
AICPA Valuation School, 2012
Lecturer, San Francisco State University School of Business 1987-1992, Hass School of Business, 2010,
Past Board of Directors, San Francisco Education Fund and Welcome.
Past Board President, The Names Project Foundation
Elder, Old First Presbyterian Church 1998-2019; Co-Founder Welcome
Board Member, Marathon Patent Group, Lincoln Theater 2021

Exhibit B Declaration of Michael Berg, December 14, 2021

Michael C. Berg
Litigation Engagements

12/1/2021

Benz v. Castelluci JAMS San Francisco Judge Eugene Lynch

Contractor misrepresented construction costs to client of private homes. Applied funds to other projects and provided client false and misleading accounting records.

Report on damages, deposition and trial testimony. Client prevailed.

Cobra v. City and County of San Francisco JAMS San Francisco

City of San Francisco accused of harming a minority owned business which provided business services to various City departments.

Report on damages, deposition and trial testimony. Defendant prevailed.

Luc v. Chiu San Francisco Superior Court Judge David Garcia

Lost business opportunity regarding real estate. Fraudulent transactions and misrepresentations.

Report on damages, deposition and trial testimony. Client prevailed

De Lage Landen v. Premier Los Angeles County Superior Court Judge Paul Guttman

Creditor claim involving lease transactions. Contract and “ordinary” course of business issues.

Report on damages, deposition and trial testimony. Client lost.

Newsom v. Brown San Francisco Superior Court Judge Lucy McCabe

Fraudulent conveyance of house within an estate. Trustee fiduciary issues. Exclusion principal applied to purpose of transaction. Badges of fraud.

Report on damages, deposition and trial testimony. Client prevailed.

De Saracho v. McNeil Machinery San Joaquin County Judge Elizabeth Humphreys

Fraudulent conveyance of business. Issues involving badges of fraud and alter ego.

Report on damages, deposition and trial testimony. Client prevailed.

Exhibit B Declaration of Michael Berg, December 14, 2021

Michael Berg CPA, Litigation assignments , Page 2

Pivrotto v. Belkin San Mateo Superior Court Judge Allan Bollhoffer

Commissions dispute. Unwinding of complex financial transactions through several alter ego entities. Demonstration of fraudulent conveyance. Case upheld on appeal and appellate court cites forensic accounting.

Report on damages, deposition and trial testimony. Client prevailed.

Broe Companies v. Leslie Fields San Mateo Superior Court Judge Quentin Kopp

Conveyance of property to trust. Application of exclusion principal in determining fraudulent nature of conveyance.

Report on damages deposition and trial testimony. Client prevailed.

Interstate Scaffolding v. Dillingham JAMS San Francisco

Creditor claim. Accounting for construction payrolls and cost allocations.

Report on damages. Client prevailed in settlement.

De Anza Interiors v. Hsu San Mateo Municipal Court

Fire destroyed business. Calculation of property loss and business income loss.

Report on damages, deposition and trial testimony. Client prevailed.

USCF Vice Chancellor v. UCSF Venue pending.

Unfair employment practices. Calculation of lost salary benefits and pension.

Report on damages. Case settled

Simpson v. Simpson San Diego County Superior Court

Assessment of corporate holdings in a marital dissolution. Ownership among a group of related entities.

Report on assets. Case settled.

Exhibit B Declaration of Michael Berg, December 14, 2021

Peinado v. Schnitzer Settlement discussion and deposition

Dispute over marital support agreement. Review of records and spousal expenses.. Case settled.

Securities and Exchange Commission v. Eadgear et al San Francisco Superior Court Settlement Conference

Securities and Exchange action against China/US based internet company. Report quantified cash activity and amounts raised from “dealers” in a highly complex environment. Defense attorney credited report with helping determine a more reasonable outcome for defendants. SEC prevailed.

MEEDL, LLC v. Anthony March Superior Court County of San Diego

Forensic report detailing the fraudulent activities of an investment broker who invested client’s fiduciary funds into investments he controlled. The funds were then transferred to the broker for his own benefit. After reviewing my report and being briefed on my deposition by his attorney, the defendant filed personal bankruptcy

Warehouse Way v. Julian Lischiz US Bankruptcy Court Northern California

Motion for Summary Judgement. Trustee challenges purchase of Partner Interest in real estate partnership. Declaration supporting defendant noting badges of fraud.

County of Ventura v. Wayne Fishback Superior Court County of Ventura

Calculation of revenue generated at illegal dumpsite. Review of entity status and testimony regarding nature of business and defendants campaign of concealment of business records. County prevailed.

Pillet v. Kendrick Superior Court County of San Francisco

Decades long scheme to hinder, delay and defraud creditor. Patriarch transfers property subject to liens to family members in attempt to avoid payment. Patriarch dies and property lost to senior creditors. Plaintiff attempts to collect debt from children but court rules that the loss of the property effectively stopped plaintiff claim.

Gregory R. Dougald, an individual debtor, United States Bankruptcy Court, Northern California Division.

Declaration opposing approval of a bankruptcy plan which attempted to delay collection of judgement. Calculation of amounts actually provided under plan demonstrated that the payments did not meet Chapter 7 distribution test.

Exhibit B Declaration of Michael Berg, December 14, 2021

Plan rejected and estate liquidated.

EXHIBIT "P"

PATENTS TRANSFERRED FROM BYTON BNA TO BYTON LIMITED				
Application #	Patent #	Invention Title	Assignment Date	Assignee
16031264	10332495	In Vehicle Karaoke	exec: 05/16/2019 rec: 05/17/2019	BYTON LIMITED
29700749	D917538	Display Screen or Portion Thereof With a Graphical User Interface	exec: 06/13/2019 Rec: 03/30/2021	BYTON LIMITED
29616345	D864227	Display Screen with an Animated Graphical User Interface	exec: 09/19/2019 rec: 09/20/2019	BYTON LIMITED
15669693	10518732	Airbag Devices Designed to Utilize a Reduced Interior Surface Area of a Vehicle	exec: 11/19/2019 rec: 11/25/2019	BYTON LIMITED
16172551	10559794	Battery Sealing Enclosure	exec: 01/02/2020 rec: 01/02/2020	BYTON LIMITED
29616340	D907653	Display Screen or Portion Thereof With a Graphical User Interface	exec: 01/09/2020 rec: 01/29/2020	BYTON LIMITED
15863834		HVAC Unit Placement Configuration for a Vehicle	exec: 02/01/2020 rec: 02/03/2020	BYTON LIMITED
29616344	D879121	Display Screen with a Graphical User Interface	exec: 02/18/2020 rec:02/20/2020	BYTON LIMITED
15863707	10887349	System and Method for Enforcing Security with a Vehicle Gateway	exec: 03/17/2020 rec: 11/25/2020	BYTON LIMITED
16136052	10745018	Hybrid User Recognition Systems for Vehicle Access and Control	exec: 03/18/2020 rec: 03/18/2020	BYTON LIMITED
15863831	10676067	User Capture Device Configuration for a Vehicle	exec: 05/04/2020 rec: 05/04/2020	BYTON LIMITED
29675745	D892693	Door Panel	exec: 07/06/2020 rec: 07/06/2020	BYTON LIMITED
15696018	10746560	Interactive Mapping	exec: 07/13/2020 rec: 07/13/2020	BYTON LIMITED
15863686	10759362	Harness for Assisted Driving	exec: 07/28/2020 rec: 07/28/2020	BYTON LIMITED
16240706	10860208	Multi-Window Display Controller	exec: 11/02/2020 rec:11/02/2020	BYTON LIMITED
29679905	D904232	Vehicle	exec: 11/03/2020 rec: 11/03/2020	BYTON LIMITED
29616346	D907054	Display Screen or Portion Thereof With a Graphical User Interface	exec: 11/25/2020 rec: 11/25/2020	BYTON LIMITED

16240701	10891921	Separate Operating Systems for Dashboard Display	exec: 12/09/2020 rec: 12/10/2020	BYTON LIMITED
16042847	10911949	Systems and Methods for a Vehicle Authenticating and Enrolling a Wireless Device	exec: 12/28/2020 rec: 12/28/2020	BYTON LIMITED
15957837		Door Opening Clearance Detection	exec: 01/07/2021 rec: 01/07/2021	BYTON LIMITED
29675750	D922932	Middle Console	exec: 05/19/2021 rec: 05/19/2021	BYTON LIMITED
15975737	11117484	Safe and Secure Charging of a Vehicle	exec: 08/11/2021 rec: 08/11/2021	BYTON LIMITED
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16240703	11042341	Integrated Functionality Of Center Display, Driver Display, and Shared-Experience Display	1/4/2019	
16272849	11107354	Systems and Methods to Recognize Parking	2/11/2019	
16272756	11110821	Sliding Center Module System For Vehicle	2/11/2019	